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ABSTRACT

This publication is a compilation of maternal and child health and related laws enacted since 1912. It is designed as a ready reference for understanding Title V state programs and Title V discretionary project grant programs. The Maternal and Child Health (MCH) program has operated as a federal-state partnership for more than 70 years. This compilation of legislation is a rich source of historic legislation and documents concerning the history of child health and welfare. It incorporates a full legislative history of Title V and an appropriations history of the program from 1935 to 1995. It also excerpts laws important to an understanding of the legislative history of maternal and child health in the United States. Included are significant MCH-related amendments to the Social Security Act, PHS Act programs later consolidated into the MCH block grant, and legislative documents affecting infant mortality and child health that predate the Social Security Act. Also included are current regulatory and program guidance citations for State MCH Block Grant applications and annual reports. The publication also contains a directory of state MCH telephone hotlines, which the states must maintain as a source of assistance to parents regarding Medicaid and MCH providers and resources. (SD)

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ED 408 093

LEGISLATIVE BASE: MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT

TITLE V OF THE SOCIAL SECURITY ACT

COMPILATION OF

MATERNAL AND CHILD HEALTH LEGISLATION

1912–1996

INCLUDING

Social Security Act
Public Health Service Act
Civil Rights Act
Selected Provisions of Other Laws
Legislative History of Title V
Program Guidance for Title V
Organizational Structure of Title V

U.S. Department of Health & Human Services
Public Health Service
HRSA
Health Resources & Services Administration
Maternal & Child Health Bureau

SEPTEMBER 1996

PS 025515

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Public Health Service
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MCH

National Center for Education
in Maternal and Child Health

Legislative Base: Maternal and Child Health Services Block Grant

Title V of the Social Security Act

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PREFACE

The Maternal and Child Health Services Block Grant has operated as a Federal-State partnership for 60 years. When the Social Security Act was passed in 1935, the Federal Government, through Title V, pledged its support of State efforts to extend and improve health and welfare services for mothers and children. This landmark legislation resulted in the establishment of State departments of health or public welfare in some States, and facilitated the efforts of existing agencies in other States.

Title V of the Social Security Act has been frequently amended in ensuing years, to reflect the expansion of national interest in maternal and child health and welfare. When the Title V program was converted to a block grant as part of the Omnibus Budget Reconciliation Act of 1981, seven categorical programs were consolidated into a single block grant: Maternal and child health and services for children with special health needs (Title V of the Social Security Act); supplemental security income for children with disabilities (sec. 1615(c) of the Act); lead-based paint poisoning prevention programs (sec. 316 of the Public Health Service (PHS) Act); genetic disease programs (1101 of the PHS Act); sudden infant death syndrome programs (sec. 1121 of the PHS Act); hemophilia treatment centers (sec. 1131 of the PHS Act); and adolescent pregnancy grants (Public Law 95-626). Amendments enacted under the Omnibus Budget Reconciliation Act of 1989 introduced stricter requirements for the use of funds and for State planning and reporting.

This edition is a successor to the series of earlier publications entitled *Legislative Base: Maternal and Child Health Services Block Grant*. It is designed as a ready reference in the administration of State Title V programs and of project grant programs administered under Title V at the Federal level. In addition to Title V, other relevant provisions of the Social Security Act, the Public Health Service Act, the Civil Rights Act, and other related child health and welfare laws are included in this publication. However, users of this edition should note that, with the exception of Title V, the above-mentioned Acts are not printed in their entirety; if users need to review sections of the Acts not presented here, they should consult relevant sections of the U.S. Code referenced at the beginning of each section.

Regulations governing project grant programs funded under the MCH Block Grant appear in this edition. On July 19, 1994, final rules amending Subpart A, Part 51a, of Title 42, Code of Federal Regulations, Project Grants for Maternal and Child Health, were published in the Federal Register (59 FR 36703). Five new sections were added to implement sections 505 (a) (8), (9), and (10) of the Social Security Act.

Tables of contents to regulations applicable to all block grants administered by this department, including the MCH Block Grant, which appear as 45 CFR Part 96, and administrative requirements for project grants and cooperative agreements, which appear at 45 CFR Part 92, are included in this edition. The full text of these regulations can be found in relevant volumes of the Code of Federal Regulations.

Tables of Contents to the Program Guidance for State MCH Block Grant applications and annual reports are also included in this edition.

This edition is a rich source of historic legislation and documents in the history of child health and welfare. It incorporates a full legislative history of Title V (42 U.S. Code 701, et seq.) and an appropriations history of the program 1935–95. It also excerpts laws important to an understanding of the legislative history of maternal and child health in the United States. Included are significant amendments to the Social Security Act, PHS Act programs later consolidated into the MCH Block, and legislative documents affecting infant mortality and child health that predate the Social Security Act.

The Maternal and Child Health Bureau, which administers Title V, is a component of the Health Resources and Services Administration, a major segment of the Public Health Service (PHS) within the Department of Health and Human Services (HHS). The Bureau is organized into four divisions: Healthy Start; Maternal, Infant, Child and Adolescent Health; Services for Children with Special Health Needs; and Systems, Education and Analysis. Title V has been administered by PHS since 1969. Prior to that time, Title V had been administered by the Children's Bureau, initially in the Department of Labor before its transfer in 1946 to HHS' predecessor agencies.

In addition to administering the MCH Block Grant, the Maternal and Child Bureau is also responsible for three programs authorized under the Public Health Service Act: Healthy Start, a targeted infant mortality reduction initiative begun in 1991; the Emergency Medical Services for Children program, enacted in 1984; and Title IV of the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act, first funded in 1988 as Pediatric AIDS Demonstrations.

The Maternal and Child Health staff in the 10 Regional Offices of the Department of Health and Human Services are the Bureau's first line of contact with States and communities, consulting and working closely with States and groups interested in providing a wide range of maternal and child health programs and developing community-based service systems. Each Regional Office has an MCH Regional Program Consultant (RPC) who serves as the program contact with the Central Office.

This edition contains a directory of State MCH telephone hotlines, which the States have been required to maintain since 1989 as a source of assistance to parents on medicaid and to MCH providers, as well as other available resources.

Communications to the Maternal and Child Health Bureau concerning this publication may be addressed to:

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MATERNAL AND CHILD HEALTH LEGISLATION

THE SOCIAL SECURITY ACT, AS AMENDED

TITLE V—MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT[1]

AUTHORIZATION OF APPROPRIATIONS

SEC. 501. [42 U.S.C. 701] (a) To improve the health of all mothers and children consistent with the applicable health status goals and national health objectives established by the Secretary under the Public Health Service Act for the year 2000, there are authorized to be appropriated $705,000,000 for fiscal year 1994 and each fiscal year thereafter—

(1) for the purpose of enabling each State—

(A) to provide and to assure mothers and children (in particular those with low income or with limited availability of health services) access to quality maternal and child health services;

(B) to reduce infant mortality and the incidence of preventable diseases and handicapping conditions among children, to reduce the need for inpatient and long-term care services, to increase the number of children (especially preschool children) appropriately immunized against disease and the number of low income children receiving health assessments and follow-up diagnostic and treatment services, and otherwise to promote the health of mothers and infants by providing prenatal, delivery, and postpartum care for low income, at-risk pregnant women, and to promote the health of children by providing preventive and primary care services for low income children;

(C) to provide rehabilitation services for blind and disabled individuals under the age of 16 receiving benefits under title XVI, to the extent medical assistance for such services is not provided under title XIX; and

(D) to provide and to promote family-centered, community-based, coordinated care (including care coordination services, as defined in subsection (b)(3)) for children with special health care needs and to facilitate the development of community-based systems of services for such children and their families;

(2) for the purpose of enabling the Secretary (through grants, contracts, or otherwise) to provide for special projects of regional and national significance, research, and training with respect to maternal and child health and children with special health care needs (including early intervention training and services development), for genetic disease testing, counseling, and information development and dissemination programs, for grants (including funding for comprehensive hemophilia diagnostic treatment centers) relating to hemophilia without regard to age, and for the screening of

newborns for sickle cell anemia, and other genetic disorders and follow-up services; and

(3) subject to section 502(b) for the purpose of enabling the Secretary (through grants, contracts, or otherwise) to provide for developing and expanding the following—

(A) maternal and infant health home visiting programs in which case management services as defined in subparagraphs (A) and (B) of subsection (b)(4), health education services, and related social support services are provided in the home to pregnant women or families with an infant up to the age one by an appropriate health professional or by a qualified nonprofessional acting under the supervision of a health care professional,

(B) projects designed to increase the participation of obstetricians and pediatricians under the program under this title and under state plans approved under title XIX,

(C) integrated maternal and child health service delivery systems (of the type described in section 1136 and using, once developed, the model application form developed under section 6506(a) of the Omnibus Budget Reconciliation Act of 1989),

(D) maternal and child health centers which (i) provide prenatal, delivery, and postpartum care for pregnant women and preventive and primary care services for infants up to age one, and (ii) operate under the direction of a not-for-profit hospital,

(E) maternal and child health projects to serve rural populations, and

(F) outpatient and community based services programs (including day care services) for children with special health care needs whose medical services are provided primarily through inpatient institutional care.

(b) For purposes of this title:

(1) The term "consolidated health programs" means the programs administered under the provisions of—

(A) this title (relating to maternal and child health and services for children with special health care needs),

(B) section 1615(c) of this Act (relating to supplemental security income for disabled children),

(C) sections 316 (relating to lead-based paint poisoning prevention programs), 1101 (relating to genetic disease programs), 1121 (relating to sudden infant death syndrome programs) and 1131 (relating to hemophilia treatment centers) of the Public Health Service Act,[2] and

(D) title VI[3] of the Health Services and Centers Amendments of 1978 (Public Law 95-626; relating to adolescent pregnancy grants),

as such provisions were in effect before the date of the enactment of the Maternal and Child Health Services Block

Grant Act.[4]

(2) The term "low income" means, with respect to an individual or family, such an individual or family with an income determined to be below the income official poverty line defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.[5]

(3) The term "care coordination services" means services to promote the effective and efficient organization and utilization of resources to assure access to necessary comprehensive services for children with special health care needs and their families.

(4) The term "case management services" means—

(A) with respect to pregnant women, services to assure access to quality prenatal, delivery, and postpartum care; and

(B) with respect to infants up to age one, services to assure access to quality preventive and primary care services.

ALLOTMENTS TO STATES AND FEDERAL SET-ASIDE

SEC. 502. [42 U.S.C. 702] (a)(1) Of the amounts appropriated under section 501(a) for a fiscal year that are not in excess of $600,000,000, the Secretary shall retain an amount equal to 15 percent for the purpose of carrying out activities described in section 501(a)(2). The authority of the Secretary to enter into any contracts under this title is effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

(2) For purposes of paragraph (1)—

(A) amounts retained by the Secretary for training shall be used to make grants to public or nonprofit private institutions of higher learning for training personnel for health care and related services for mothers and children; and

(B) amounts retained by the Secretary for research shall be used to make grants to, contracts with, or jointly financed cooperative agreements with, public or nonprofit institutions of higher learning and public or nonprofit private agencies and organizations engaged in research or in maternal and child health or programs for children with special health care needs for research projects relating to maternal and child health services or services for children with special health care needs which show promise of substantial contribution to the advancement thereof.

(3) No funds may be made available by the Secretary under this subsection or subsection (b) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner,

and contain and be accompanied by such information as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under this title.

(b)(1)(A) Of the amounts appropriated under section 501(a) for a fiscal year in excess of $600,000,000 the Secretary shall retain an amount equal to 12 3/4 percent thereof for the projects described in subparagraphs (A) through (F) of section 501(a)(3).

(B) Any amount appropriated under section 501(a) for a fiscal year in excess of $600,000,000 that remains after the Secretary has retained the applicable amount (if any) under subparagraph (A) shall be retained by the Secretary in accordance with subsection (a) and allocated to the States in accordance with subsection (c).

(2)(A) Of the amounts retained for the purpose of carrying out activities described in section 501(a)(3)(A), (B), (C), (D) and (E), the Secretary shall provide preference to qualified applicants which demonstrate that the activities to be carried out with such amounts shall be in areas with a high infant mortality rate (relative to the average infant mortality rate in the United States or in the State in which the area is located).

(B) In carrying out activities described in section 501(a)(3)(D), the Secretary shall not provide for developing or expanding a maternal and child health center unless the Secretary has received satisfactory assurances that there will be applied, towards the costs of such development or expansion, non-Federal funds in an amount at least equal to the amount of funds provided under this title toward such development or expansion.

(C) From the remaining amounts appropriated under section 501(a) for any fiscal year that are not in excess of $600,000,000, the Secretary shall allot to each State which has transmitted an application for the fiscal year under section 505(a), an amount determined as follows:

(1) The Secretary shall determine, for each State—

(A)(i) the amount provided or allotted by the Secretary to the State and to entities in the State under the provisions of the consolidated health programs (as defined in section 501(b)(1)), other than for any of the projects or programs described in subsection (a), from appropriations for fiscal year 1981,

(ii) the proportion that such amount for that State bears to the total of such amounts for all the States, and

(B)(i) the number of low income children in the State, and

(ii) the proportion that such number of children for that State bears to the total of such numbers of children for all the States.

(2) Each such State shall be allotted for each fiscal year an amount equal to the sum of—

(A) the amount of the allotment to the State under this subsection in fiscal year 1983, and

(B) the State's proportion (determined under paragraph (1)(B)(ii)) of the amount by which the allotment available under this subsection for all the States for that fiscal year exceeds the amount that was available under this subsection for allotment for all the States for fiscal year 1983.

(d)(1) To the extent that all the funds appropriated under this title for a fiscal year are not otherwise allotted to States either because all the States have not qualified for such allotments under section 505(a) for the fiscal year or because some States have indicated in their descriptions of activities under section 505(a) that they do not intend to use the full amount of such allotments, such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.

(2) To the extent that all the funds appropriated under this title for a fiscal year are not otherwise allotted to States because some State allotments are offset under section 506(b)(2), such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.

PAYMENTS TO STATES

SEC. 503. [42 U.S.C. 703] (a) From the sums appropriated therefor and the allotments available under section 502(c), the Secretary shall make payments as provided by section 6503(a) of title 31, United States Code to each State provided such an allotment under section 502(c), for each quarter, of an amount equal to four-sevenths of the total of the sums expended by the State during such quarter in carrying out the provisions of this title.

(b) Any amount payable to a State under this title from allotments for a fiscal year which remains unobligated at the end of such year shall remain available to such State for obligation during the next fiscal year. No payment may be made to a State under this title from allotments for a fiscal year for expenditures made after the following fiscal year.

(c) The Secretary, at the request of a State, may reduce the amount of payments under subsection (a) by—

(1) the fair market value of any supplies or equipment furnished the State, and

(2) the amount of the pay, allowances, and travel expenses

of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 505(a) on a temporary basis. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

USE OF ALLOTMENT FUNDS

SEC. 504. [42 U.S.C. 704] (a) Except as otherwise provided under this section, a State may use amounts paid to it under section 503 for the provision of health services and related activities (including planning, administration, education, and evaluation and including payment of salaries and other related expenses of National Health Service Corps personnel) consistent with its application transmitted under section 505(a).

(b) Amounts described in subsection (a) may not be used for—

(1) inpatient services, other than inpatient services provided to children with special health care needs or to high-risk pregnant women and infants and such other inpatient services as the Secretary may approve;

(2) cash payments to intended recipients of health services;

(3) the purchase or improvement of land, the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility, or the purchase of major medical equipment;

(4) satisfying any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds;

(5) providing funds for research or training to any entity other than a public or nonprofit private entity; or

(6) payment for any item or service (other than an emergency item or service) furnished—

(A) by an individual or entity during the period when such individual or entity is excluded under this title or title XVIII, XIX, or XX pursuant to section 1128, 1128A, 1156, or 1842(j)(2), or

(B) at the medical direction or on the prescription of a physician during the period when the physician is excluded under this title or title XVIII, XIX, or XX pursuant to section 1128, 1128A, 1156, or 1842(j)(2) and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person). The Secretary may waive the limitation contained in paragraph (3) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this title.

(c) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, and administering programs funded under this title.

(d) Of the amounts paid to a State under section 503 from an allotment for a fiscal year under section 502(c), not more than 10 percent may be used for administering the funds paid under such section.

APPLICATION FOR BLOCK GRANT FUNDS

SEC. 505. [42 U.S.C. 705] (a) In order to be entitled to payments for allotments under section 502 for a fiscal year, a State must prepare and transmit to the Secretary an application (in a standardized form specified by the Secretary) that—

(1) contains a statewide needs assessment (to be conducted every 5 years) that shall identify (consistent with the health status goals and national health objectives referred to in section 501(a)) the need for—

(A) preventive and primary care services for pregnant women, mothers, and infants up to age one;

(B) preventive and primary care services for children; and

(C) services for children with special health care needs (as specified in section 501(a)(1)(D));

(2) includes for each fiscal year—

(A) a plan for meeting the needs identified by the statewide needs assessment under paragraph (1); and

(B) a description of how the funds allotted to the State under section 502(c) will be used for the provision and coordination of services to carry out such plan that shall include—

(i) subject to paragraph (3), a statement of the goals and objectives consistent with the health status goals and national health objectives referred to in section 501(a) for meeting the needs specified in the State plan described in subparagraph (A);

(ii) an identification of the areas and localities in the State in which services are to be provided and coordinated;

(iii) an identification of the types of services to be provided and the categories or characteristics of individuals to be served; and

(iv) information the State will collect in order to prepare reports required under section 506(a);

(3) except as provided under subsection (b), provides that the State will use—

(A) at least 30 percent of such payment amounts for preventive and primary care services for children, and

(B) at least 30 percent of such payment amounts for services for children with special health care needs (as specified in section 501(a)(1)(D));

(4) provides that a State receiving funds for maternal and child health services under this title shall maintain the level of funds being provided solely by such State for maternal and child health programs at a level at least equal to the level that such State provided for such programs in fiscal year 1989; and

(5) provides that—

(A) the State will establish a fair method (as determined by the State) for allocating funds allotted to the State under this title among such individuals, areas, and localities identified under paragraph (1)(A) as needing maternal and child health services, and the State will identify and apply guidelines for the appropriate frequency and content of, and appropriate referral and followup with respect to, health care assessments and services financially assisted by the State under this title and methods for assuring quality assessments and services;

(B) funds allotted to the State under this title will only be used, consistent with section 508, to carry out the purposes of this title or to continue activities previously conducted under the consolidated health programs (described in section 501(b)(1));

(C) the State will use—

(i) special consideration (where appropriate) for the continuation of the funding of special projects in the State previously funded under this title (as in effect before August 31, 1981), and

(ii) a reasonable proportion (based upon the State's previous use of funds under this title) of such sums to carry out the purposes described in subparagraphs (A) through (D) of section 501(a)(1);

(D) if any charges are imposed for the provision of health services assisted by the State under this title, such charges (i) will be pursuant to a public schedule of charges, (ii) will not be imposed with respect to services provided to low income mothers or children, and (iii) will be adjusted to reflect the income, resources, and family size of the individual provided the services;

(E) the State agency (or agencies) administering the State's program under this title will provide for a toll-free telephone number (and other appropriate methods) for the use of parents to access information about health care providers and practitioners who provide health care services under this title and title XIX and about other relevant health and health-related providers and practitioners; and

(F) the State agency (or agencies) administering the State's program under this title will—

(i) participate in the coordination of activities between such program and the early and periodic screening, diagnostic, and treatment program under section 1905(a)(4)(B) (including the establishment of periodicity and content standards for early and periodic screening, diagnostic, and treatment services), to ensure that such programs are carried out without duplication of effort,

(ii) participate in the arrangement and carrying out of coordination agreements described in section 1902(a)(11) (relating to coordination of care and services available under this title and title XIX),

(iii) participate in the coordination of activities within the State with programs carried out under this title and related Federal grant programs (including supplemental food programs for mothers, infants, and children, related education programs, and other health, developmental disability, and family planning programs), and

(iv) provide, directly and through their providers and institutional contractors, for services to identify pregnant women and infants who are eligible for medical assistance under subparagraph (A) or (B) of section 1902(l)(1) and, once identified, to assist them in applying for such assistance.

The application shall be developed by, or in consultation with, the State maternal and child health agency and shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during its development and after its transmittal.

(b) The Secretary may waive the requirements under subsection (a)(3) that a State's application for a fiscal year provide for the use of funds for specific activities if for that fiscal year—

(1) the Secretary determines—

(A) on the basis of information provided in the State's most recent annual report submitted under section 506(a)(1), that the State has demonstrated an extraordinary unmet need for one of the activities described in subsection (a)(3), and

(B) that the granting of the waiver is justified and will assist in carrying out the purposes of this title; and

(2) the State provides assurances to the Secretary that the

State will provide for the use of some amounts paid to it under section 503 for the activities described in subparagraphs (A) and (B) of subsection (a)(3) and specifies the percentages to be substituted in each of such subparagraphs.

REPORTS AND AUDITS

SEC. 506. [42 U.S.C. 706] (a)(1) Each State shall prepare and submit to the Secretary annual reports on its activities under this title. Each such report shall be prepared by, or in consultation with, the State maternal and child health agency. In order properly to evaluate and to compare the performance of different States assisted under this title and to assure the proper expenditure of funds under this title, such reports shall be in such standardized form and contain such information (including information described in paragraph (2)) as the Secretary determines (after consultation with the States and the Comptroller General) to be necessary (A) to secure an accurate description of those activities, (B) to secure a complete record of the purposes for which funds were spent, of the recipients of such funds,[6] (C) to describe the extent to which the State has met the goals and objectives it set forth under section 505(a)(2)(B)(i) and the national health objectives referred to in section 501(a) and (D) to determine the extent to which funds were expended consistent with the State's application transmitted under section 505(a). Copies of the report shall be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

(2) Each annual report under paragraph (1) shall include the following information:

(A)(i) The number of individuals served by the State under this title (by class of individuals).

(ii) The proportion of each class of such individuals which has health coverage.

(iii) The types (as defined by the Secretary) of services provided under this title to individuals within each such class.

(iv) The amounts spent under this title on each type of services, by class of individuals served.

(B) Information on the status of maternal and child health in the State, including—

(i) information (by county and by racial and ethnic group) on—

(I) the rate of infant mortality, and

(II) the rate of low-birth-weight births;

(ii) information (on a State-wide basis) on—

(I) the rate of maternal mortality,

(II) the rate of neonatal death,

(III) the rate of perinatal death,

(IV) the number of children with chronic illness and the type of illness,

(V) the proportion of infants born with fetal alcohol syndrome,

(VI) the proportion of infants born with drug dependency,

(VII) the proportion of women who deliver who do not receive prenatal care during the first trimester of pregnancy, and

(VIII) the proportion of children, who at their second birthday, have been vaccinated against each of measles, mumps, rubella, polio, diphtheria, tetanus, pertussis, Hib meningitis, and hepatitis B; and

(iii) information on such other indicators of maternal, infant, and child health care status as the Secretary may specify.

(C) Information (by racial and ethnic group) on—

(i) the number of deliveries in the State in the year, and

(ii) the number of such deliveries to pregnant women who were provided prenatal, delivery, or postpartum care under this title or were entitled to benefits with respect to such deliveries under the State plan under title XIX in the year.

(D) Information (by racial and ethnic group) on—

(i) the number of infants under one year of age who were in the State in the year, and

(ii) the number of such infants who were provided services under this title or were entitled to benefits under the State plan under title XIX at any time during the year.

(E) Information on the number of—

(i) obstetricians,

(ii) family practitioners,

(iii) certified family nurse practitioners,

(iv) certified nurse midwives,

(v) pediatricians, and

(vi) certified pediatric nurse practitioners,

who were licensed in the State in the year.

For purposes of subparagraph (A), each of the following shall be considered to be a separate class of individuals: pregnant women, infants up to age one, children with special health care needs, other children under age 22, and other individuals.

(3) The Secretary shall annually transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report that includes—

(A) a description of each project receiving funding under paragraph (2) or (3) of section 502(a), including the amount of Federal funds provided, the number of individuals served or trained, as appropriate, under the project, and a summary of any formal evaluation conducted with respect to the project;

(B) a summary of the information described in paragraph

(2)(A) reported by States;

(C) based on information described in paragraph (2)(B) supplied by the States under paragraph (1), a compilation of the following measures of maternal and child health in the United States and in each State:

(i) Information on—

(I) the rate of infant mortality, and

(II) the rate of low-birth-weight births.

Information under this clause shall also be compiled by racial and ethnic group.

(ii) Information on—

(I) the rate of maternal mortality,

(II) the rate of neonatal death,

(III) the rate of perinatal death,

(IV) the proportion of infants born with fetal alcohol syndrome,

(V) the proportion of infants born with drug dependency,

(VI) the proportion of women who deliver who do not receive prenatal care during the first trimester of pregnancy, and

(VII) the proportion of children, who at their second birthday, have been vaccinated against each of measles, mumps, rubella, polio, diphtheria, tetanus, pertussis, Hib meningitis, and hepatitis B.

(iii) Information on such other indicators of maternal, infant, and child health care status as the Secretary has specified under paragraph (2)(B)(iii).

(iv) Information (by racial and ethnic group) on—

(I) the number of deliveries in the State in the year, and

(II) the number of such deliveries to pregnant women who were provided prenatal, delivery, or postpartum care under this title or were entitled to benefits with respect to such deliveries under the State plan under title XIX in the year;

(D) based on information described in subparagraphs (C), (D), and (E) of paragraph (2) supplied by the States under paragraph (1), a compilation of the following information in the United States and in each State:

(i) Information on—

(I) the number of deliveries in the year, and

(II) the number of such deliveries to pregnant women who were provided prenatal, delivery, or postpartum care under this title or were entitled to benefits with respect to such deliveries under a State plan under title XIX in the year.

Information under this clause shall also be compiled by racial and ethnic group.

(ii) Information on—

(I) the number of infants under one year of age in the year, and

(II) the number of such infants who were provided services under this title or were entitled to benefits under a State plan under title XIX at any time during the year.

Information under this clause shall also be compiled by racial and ethnic group.

(iii) Information on the number of—

(I) obstetricians,

(II) family practitioners,

(III) certified family nurse practitioners,

(IV) certified nurse midwives,

(V) pediatricians, and

(VI) certified pediatric nurse practitioners,

who were licensed in a State in the year; and

(E) an assessment of the progress being made to meet the health status goals and national health objectives referred to in section 501(a).

(b)(1) Each State shall, not less often than once every two years, audit its expenditures from amounts received under this title. Such State audits shall be conducted by an entity independent of the State agency administering a program funded under this title in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions and generally accepted auditing standards. Within 30 days following the completion of each audit report, the State shall submit a copy of that audit report to the Secretary.

(2) Each State shall repay to the United States amounts found by the Secretary, after notice and opportunity for a hearing to the State, not to have been expended in accordance with this title and, if such repayment is not made, the Secretary may offset such amounts against the amount of any allotment to which the State is or may become entitled under this title or may otherwise recover such amounts.

(3) The Secretary may, after notice and opportunity for a hearing, withhold payment of funds to any State which is not using its allotment under this title in accordance with this title. The Secretary may withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

(c) The State shall make copies of the reports and audits required by this section available for public inspection within the State.

(d)(1) For the purpose of evaluating and reviewing the block grant established under this title, the Secretary and the Comptroller General shall have access to any books, accounts, records, correspondence, or other documents that are related to such block grant, and that are in the possession, custody, or control of States, political subdivisions thereof, or any of their grantees.

(2) In conjunction with an evaluation or review under paragraph (1), no State or political subdivision thereof (or grantee of either) shall be required to create or prepare new records to comply with paragraph (1).

(3) For other provisions relating to deposit, accounting, reports, and auditing with respect to Federal grants to States, see section 6503(b) of title 31, United States Code.

CRIMINAL PENALTY FOR FALSE STATEMENTS

SEC. 507. [42 U.S.C. 707] (a) Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payment may be made by a State from funds allotted to the State under this title, or

(2) having knowledge of the occurrence of any event affecting his initial or continued right to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized,

shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

(b) For civil monetary penalties for certain submissions of false claims, see section 1128A of this Act.

NONDISCRIMINATION

SEC. 508. [42 U.S.C. 708] (a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975,[7] on the basis of handicap under section 504 of the Rehabilitation Act of 1973,[8] on the basis of sex under title IX of the Education Amendments of 1972,[9] or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964,[10] programs and activities funded in whole or in part with funds made available under this title are considered to be programs and activities receiving Federal financial assistance.

(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this title.

(b) Whenever the Secretary finds that a State, or an entity that has received a payment from an allotment to a State under section 502(c), has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

(3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever he has reason to believe that the entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

ADMINISTRATION OF TITLE AND STATE PROGRAMS

SEC. 509. [42 U.S.C. 709] (a) The Secretary shall designate an identifiable administrative unit with expertise in maternal and child health within the Department of Health and Human Services, which unit shall be responsible for—

(1) the Federal program described in section 502(a);

(2) promoting coordination at the Federal level of the activities authorized under this title and under title XIX of this Act, especially early and periodic screening, diagnosis and treatment, related activities funded by the Departments of Agriculture and Education, and under health block grants and categorical health programs, such as immunizations, administered by the Secretary;

(3) disseminating information to the States in such areas as preventive health services and advances in the care and treatment of mothers and children;

(4) providing technical assistance, upon request, to the States in such areas as program planning, establishment of goals and objectives, standards of care, and evaluation and in developing consistent and accurate data collection mechanisms in order to report the information required under section 506(a)(2);

(5) in cooperation with the National Center for Health Statistics and in a manner that avoids duplication of data collection, collection, maintenance, and dissemination of information relating to the health status and health service needs of mothers and children in the United States;

(6) assisting in the preparation of reports to the Congress on the activities funded and accomplishments achieved under this title from the information required to be reported by the States under sections 505(a) and 506; and[11]

(7) assisting States in the development of care coordination services (as defined in section 501(b)(3)); and

(8) developing and making available to the State agency (or agencies) administering the State's program under this title a national directory listing by State the toll-free numbers described in section 505(a)(5)(E).

(b) The State health agency of each State shall be responsible for the administration (or supervision of the administration) of programs carried out with allotments made to the State under this title, except that, in the case of a State which on July 1, 1967, provided for administration (or supervision thereof) of the State plan under this title (as in effect on such date) by a State agency other than the State health agency, that State shall be considered to comply[12] the requirement of this subsection if it would otherwise comply but for the fact that such other State agency administers (or supervises the administration of) any such program providing services for children with special health care needs.

SEPARATE PROGRAM FOR ABSTINENCE EDUCATION

SEC. 510. [42 U.S.C. 710] (a) For the purpose described in subsection (b), the Secretary shall, for fiscal year 1998 and each subsequent fiscal year, allot to each State which has transmitted an application for the fiscal year under section 505(a) an amount equal to the product of—

(1) the amount appropriated in subsection (d) for the fiscal year; and

(2) the percentage determined for the State under section 502(c)(1)(B)(ii).

(b)(1) The purpose of an allotment under subsection (a) to a State is to enable the State to provide abstinence education, and at the option of the State, where appropriate, mentoring, counseling, and adult supervision to promote abstinence from sexual activity, with a focus on those groups which are most likely to bear children out-of-wedlock.

(2) For purposes of this section, the term "abstinence education" means an educational or motivational program which—

(A) has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity;

(B) teaches abstinence from sexual activity outside marriage as the expected standard for all school age children;

(C) teaches that abstinence from sexual activity is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems;

(D) teaches that a mutually faithful monogamous relationship in context of marriage is the expected standard of human sexual activity;

(E) teaches that sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects;

(F) teaches that bearing children out-of-wedlock is likely to have harmful consequences for the child, the child's parents, and society;

(G) teaches young people how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances; and

(H) teaches the importance of attaining self-sufficiency before engaging in sexual activity.

(c)(1) Sections 503, 507, and 508 apply to allotments under subsection (a) to the same extent and in the same manner as such sections apply to allotments under section 502(c).

(2) Sections 505 and 506 apply to allotments under subsection (a) to the extent determined by the Secretary to be appropriate.

(d) For the purpose of allotments under subsection (a), there is appropriated, out of any money in the Treasury not otherwise appropriated, an additional $50,000,000 for each of the fiscal years 1998 through 2002. The appropriation under the preceding sentence for a fiscal year is made on October 1 of the fiscal year.

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[1] Title V of the Social Security Act is administered by the Health Resources and Services Administration, Public Health Service, Department of Health and Human Services.

Title V appears in the United States Code as §§701-709, subchapter V, chapter 7, Title 42.

Regulations of the Secretary of Health and Human Services relating to Title V are contained in chapter I, Title 42, and in subtitle A, Title 45, Code of Federal Regulations.

See Vol. II, P.L. 78-410, §317A(a) and (d), with respect to coordination required in lead poisoning prevention.

See Vol. II, P.L. 88-352, §601, with respect to prohibition against discrimination in federally assisted programs.

See Vol. II, P.L. 95-521, §102(i), with respect to reporting of benefits received under the Social Security Act.

See Vol. II, P.L. 101-239, §6508, with respect to a demonstration project on health insurance for medically uninsurable children; and §6509, with respect to a maternal and child health handbook.

[2] P.L. 78-410. P.L. 97-35, §2193(b)(1), 95 Stat. 827, repealed §§316, 1101, 1121, and 1131 of the PHSA.

[3] P.L. 95-626, Title VI, was repealed by P.L. 97-35, §955(b); 95 Stat. 592.

[4] P.L. 97-35, Title XXI, subtitle D [95 Stat. 818].

[5] Vol. II, P.L. 97-35.

[6] As in original.

[7] See Vol. II, P.L. 94-135, Title III [89 Stat. 728].

[8] See Vol. II, P.L. 93-112.

[9] See Vol. II, P.L. 92-318.

[10] See Vol. II, P.L. 88-352.

[11] As in original. "and" should probably not appear.

[12] As in original. Probably should be "comply with".

TITLE XI—GENERAL PROVISIONS AND PEER REVIEW

DEMONSTRATION PROJECTS[1]

SEC. 1115. [42 U.S.C. 1315] (a) In the case of any experimental, pilot, or demonstration project which, in the judgment of the Secretary, is likely to assist in promoting the objectives of title I, X, XIV, XVI, or XIX, or part A or D of title IV, in a State or States—

(1) the Secretary may waive compliance with any of the requirements of section 2, 402, 454, 1002, 1402, 1602, or 1902, as the case may be, to the extent and for the period he finds necessary to enable such State or States to carry out such project, and

(2) costs of such project which would not otherwise be included as expenditures under section 3, 403, 455, 1003, 1403, 1603, or 1903, as the case may be, and which are not included as part of the costs of projects under section 1110, shall, to the extent and for the period prescribed by the Secretary, be regarded as expenditures under the State plan or plans approved under such title, or for administration of such State plan or plans, as may be appropriate. In addition, not to exceed $4,000,000 of the aggregate amount appropriated for payments to States under such titles for any fiscal year beginning after June 30, 1967, shall be available, under such terms and conditions as the Secretary may establish, for payments to States to cover so much of the cost of such projects as is not covered by payments under such titles and is not included as part of the cost of projects for purposes of section 1110.[2]

(b)(1) In order to permit the States to achieve more efficient and effective use of funds for public assistance, to reduce dependency, and to improve the living conditions and increase the incomes of individuals who are recipients of public assistance, any State having an approved plan under part A of title IV may, subject to the provisions of this subsection, establish and conduct not more than three demonstration projects. In establishing and conducting any such project the State shall—

(A) provide that not more than one such project be conducted on a statewide basis;

(B) provide that in making arrangements for public service employment—

(i) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on such project are established and will be maintained,

(ii) such project will not result in the displacement of employed workers,

(iii) each participant in such project shall be compensated for work performed by him at an hourly rate equal to the prevailing hourly wage for similar work in the locality where the participant performs such work (and, for purposes of this clause, benefits payable under the State's plan approved under part A of title IV of the family of which such participant is a member shall be regarded as compensation for work performed by such participant),

(iv) with respect to such project the conditions of work, training, education, and employment are reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant, and

(v) appropriate workmen's compensation protection is provided to all participants; and

(C) provide that participation in such project by any individual receiving aid to families with dependent children be voluntary.

(2) Any State which establishes and conducts demonstration projects under this subsection may, subject to paragraph (3), with respect to any such project—

(A) waive, subject to paragraph (3), any or all of the requirements of sections 402(a)(1) (relating to statewide operation), 402(a)(3) (relating to administration by a single State agency), 402(a)(8) (relating to disregard of earned income), except that no such waiver of 402(a)(8) shall operate to waive any amount in excess of one-half of the earned income of any individual, and 402(a)(19) (relating to the work incentive program); and

(B) subject to paragraph (4), use to cover the costs of the project such funds as are appropriated for payment to such State with respect to the assistance which is or would, except for participation in a project under this subsection, be payable to individuals participating in such projects under part A of title IV for any fiscal year in which such projects are conducted.

(3)(A) Any State which wishes to establish and conduct demonstration projects under the provisions of this subsection shall submit an application to the Secretary in such form and containing such information as the Secretary may require. Whenever any State submits such an application to the Secretary, it shall at the same time issue public notice of that fact together with a general description of the project with respect to which the application is submitted, and shall invite comment thereon from interested parties and comments thereon may be submitted, within the 30-day period beginning with the date the application is submitted to the Secretary, to the State or the Secretary by such parties. The State shall also make copies of the application available for public inspection. The Secretary shall also immediately publish a summary of the proposed project, make copies of the application available for public inspection, and receive and consider comments submitted with respect to the application. A State shall be authorized to proceed with a project submitted under this subsection—

(i) when such application has been approved by the Secretary (which shall be no earlier than 30 days following the date the application is submitted to him), or

(ii) 60 days after the date on which such application is submitted to the Secretary unless, during such 60 day period, he denies the application.

(B) Notwithstanding the provisions of paragraph (2)(A), the Secretary may review any waiver made by a State under such paragraph. Upon a finding that any such waiver is inconsistent with the purposes of this subsection and the purposes of part A of title IV, the Secretary may disapprove such waiver. The project with respect to which any such disapproved waiver was made shall be terminated by such State not later than the last day of the month following the month in which such waiver was disapproved.

(4) Any amount payable to a State under section 403(a) on behalf of an individual participating in a project under this section shall not be increased by reason of the participation of such individual in any demonstration project conducted under this subsection over the amount which would be payable if such individual were receiving aid to families with dependent children and not participating in such project.

(5) Participation in a project established under this section shall not be considered to constitute employment for purposes of any finding with respect to "unemployment" as that term is used in section 407.

(6) Any demonstration project established and conducted pursuant to the provisions of this subsection shall be conducted for not longer than two years. All demonstration projects established and conducted pursuant to the provisions of this subsection shall be terminated not later than September 30, 1980.

(c) In the case of any experimental, pilot, or demonstration project undertaken under subsection (a) to assist in promoting the objectives of part D of title IV, the project—

(1) must be designed to improve the financial well-being of children or otherwise improve the operation of the child support program;

(2) may not permit modifications in the child support program which would have the effect of disadvantaging children in need of support; and

(3) must not result in increased cost to the Federal Government under the program of aid to families with dependent children.

(d)(1)(A) The Secretary shall enter into agreements with up to 8 States submitting applications under this subsection for the purpose of conducting demonstration projects in such States to test and evaluate the use, with respect to individuals who received aid under part A of title IV in the preceding month (on the basis of the unemployment of the parent who is the principal earner), of a number greater than 100 for the number of hours per month that such individuals may work and still be considered to be unemployed for purposes of section 407. If any State submits an application under this subsection for the purpose of conducting a demonstration project to test and evaluate the total elimination of the 100-hour rule, the Secretary shall approve at least one such application.

(B) If any State with an agreement under this subsection so requests, the demonstration project conducted pursuant to such agreement may test and evaluate the complete elimination of the 100-hour rule and of any other durational standard that might be applied in defining unemployment for purposes of determining eligibility under section 407.

(2) Notwithstanding section 402(a)(1), a demonstration project conducted under this subsection may be conducted in one or more political subdivisions of the State.

(3) An agreement under this subsection shall be entered into between the Secretary and the State agency designated under section 402(a)(3). Such agreement shall provide for the payment of aid under the applicable State plan under part A of title IV as though section 407 had been modified to reflect the definition of unemployment used in the demonstration project but shall also provide that such project shall otherwise be carried out in accordance with all of the requirements and conditions of section 407 (and, except as provided in paragraph (2), any related requirements and conditions under part A of title IV).

(4) A demonstration project under this subsection may be commenced any time after September 30, 1990, and shall be conducted for such period of time as the agreement with the Secretary may provide; except that, in no event may a demonstration project under this section be conducted after September 30, 1995.

(5)(A) Any State with an agreement under this subsection shall evaluate the comparative cost and employment effects of the use of the definition of unemployment in its demonstration project under this section by use of experimental and control groups comprised of a random sample of individuals receiving aid under section 407 and shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of the project conducted by the State.

(B) The Secretary shall report the results of the demonstration projects conducted under this subsection to the Congress not later than 6 months after all such projects are completed.

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[1] See Vol. II, P.L. 99-272, §9220, with respect to the On Lok waiver and §9221 with respect to the "Access: Medicare" demonstration project; and §9523, as amended by P.L. 101-239, §6408(b), with respect to the Texas waiver project.

See Vol. II, P.L. 100-203, §4115, with respect to State demonstration projects.

See Vol. II, P.L. 100-360, §301(g)(1), with respect to any State providing medical assistance to its residents under a waiver granted under this section.

See Vol. II, P.L. 100-485, §§501-502, §505 [as amended by P.L. 101-508, §5063], and §506, with respect to Family Support demonstration projects.

[2] P.L. 100-485, §507, provides that, upon application by the State of Minnesota, the Secretary shall extend until June 30, 1991*, the waiver granted to such State under this subsection to conduct a prepaid medicaid demonstration project.

*P.L. 101-239, §6411(j), struck out "1990" and substituted "1991". See Vol. II, P.L. 100-485, §507 [as amended by P.L. 101-508, §4733(1)], with respect to the waiver granted to Minnesota.

DISCLOSURE OF OWNERSHIP AND RELATED INFORMATION[1]

SEC. 1124. [42 U.S.C. 1320a-3] (a)(1) The Secretary shall by regulation or by contract provision provide that each disclosing entity (as defined in paragraph (2)) shall—

(A) as a condition of the disclosing entity's participation in, or certification or recertification under, any of the programs established by titles V, XVIII, and XIX, or

(B) as a condition for the approval or renewal of a contract or agreement between the disclosing entity and the Secretary or the appropriate State agency under any of the programs established under titles V, XVIII, and XIX, supply the Secretary or the appropriate State agency with full and complete information as to the identity of each person with an ownership or control interest (as defined in paragraph (3)) in the entity or in any subcontractor (as defined by the Secretary in regulations) in which the entity directly or indirectly has a 5 per centum or more ownership interest.

(2) As used in this section, the term "disclosing entity" means an entity which is—

(A) a provider of services (as defined in section 1861(u), other than a fund), an independent clinical laboratory, a renal disease facility, or a health maintenance organization (as defined in section 1301(a) of the Public Health Service Act 30[2]);

(B) an entity (other than an individual practitioner or group of practitioners) that furnishes, or arranges for the furnishing of, items or services with respect to which payment may be claimed by the entity under any plan or program established pursuant to title V or under a State plan approved under title XIX; or

(C) a carrier or other agency or organization that is acting as a fiscal intermediary or agent with respect to one or more providers of services (for purposes of part A or part B of title XVIII, or both, or for purposes of a State plan approved under title XIX) pursuant to (i) an agreement under section 1816, (ii) a contract under section 1842, or (iii) an agreement with a single State agency administering or supervising the administration of a State plan approved under title XIX.

(3) As used in this section, the term "person with an ownership or control interest" means, with respect to an entity, a person who—

(A)(i) has directly or indirectly (as determined by the Secretary in regulations) an ownership interest of 5 per centum or more in the entity; or

(ii) is the owner of a whole or part interest in any mortgage, deed of trust, note, or other obligation secured (in whole or in part) by the entity or any of the property or assets thereof, which whole or part interest is equal to or exceeds 5 per centum of the total property and assets of the entity; or

(B) is an officer or director of the entity, if the entity is organized as a corporation; or

(C) is a partner in the entity, if the entity is organized as a partnership.

(b) To the extent determined to be feasible under regulations of the Secretary, a disclosing entity shall also include in the information supplied under subsection (a)(1), with respect to each person with an ownership or control interest in the entity, the name of any other disclosing entity with respect to which the person is a person with an ownership or control interest.

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[1] See Vol. II, P.L. 78-410, §1318, with respect to financial disclosure.

[2] P.L. 78-410.

EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS

SEC. 1128. [42 U.S.C. 1320a-7] (a) MANDATORY EXCLUSION.—The Secretary shall exclude the following individuals and entities from participation in any program under title XVIII and shall direct that the following individuals and entities be excluded from participation in any State health care program (as defined in subsection (h)):

(1) CONVICTION OF PROGRAM-RELATED CRIMES.—Any individual or entity that has been convicted of a criminal offense related to the delivery of an item or service under title XVIII or under any State health care program.

(2) CONVICTION RELATING TO PATIENT ABUSE.—Any individual or entity that has been convicted, under Federal or State law, of a criminal offense relating to neglect or abuse of patients in connection with the delivery of a health care item or service.

(b) PERMISSIVE EXCLUSION.—The Secretary may exclude the following individuals and entities from participation in any program under title XVIII and may direct that the following individuals and entities be excluded from participation in any State health care program:

(1) CONVICTION RELATING TO FRAUD.—Any individual or entity that has been convicted, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a program operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.

(2) CONVICTION RELATING TO OBSTRUCTION OF AN INVESTIGATION.—Any individual or entity that has been convicted, under Federal or State law, in connection with the interference with or obstruction of any investigation into any criminal offense described in paragraph (1) or in subsection (a).

(3) CONVICTION RELATING TO CONTROLLED SUBSTANCE.—Any individual or entity that has been convicted, under Federal or State law, of a criminal offense relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.

(4) LICENSE REVOCATION OR SUSPENSION.—Any individual or entity—

(A) whose license to provide health care has been revoked or suspended by any State licensing authority, or who otherwise lost such a license or the right to apply for or renew such a license, for reasons bearing on the individual's or entity's professional competence, professional performance, or financial integrity, or

(B) who surrendered such a license while a formal disciplinary proceeding was pending before such an authority and the proceeding concerned the individual's or entity's professional competence, professional performance, or financial integrity.

(5) EXCLUSION OR SUSPENSION UNDER FEDERAL OR STATE HEALTH CARE PROGRAM.— Any individual or entity which has been suspended or excluded from participation, or otherwise sanctioned, under—

(A) any Federal program, including programs of the Department of Defense or the Department of Veterans Affairs[1], involving the provision of health care, or

(B) a State health care program, for reasons bearing on the individual's or entity's professional competence, professional performance, or financial integrity.

(6) CLAIMS FOR EXCESSIVE CHARGES OR UNNECESSARY SERVICES AND FAILURE OF CERTAIN ORGANIZATIONS TO FURNISH MEDICALLY NECESSARY SERVICES.—Any individual or entity that the Secretary determines—

(A) has submitted or caused to be submitted bills or requests for payment (where such bills or requests are based on charges or cost) under title XVIII or a State health care program containing charges (or, in applicable cases, requests for payment of costs) for items or services furnished substantially in excess of such individual's or entity's usual charges (or, in applicable cases, substantially in excess of such individual's or entity's costs) for such items or services, unless the Secretary finds there is good cause for such bills or requests containing such charges or costs;

(B) has furnished or caused to be furnished items or services to patients (whether or not eligible for benefits under title XVIII or under a State health care program) substantially in excess of the needs of such patients or of a quality which fails to meet professionally recognized standards of health care;

(C) is—

(i) a health maintenance organization (as defined in section 1903(m)) providing items and services under a State plan approved under title XIX, or

(ii) an entity furnishing services under a waiver approved under section 1915(b)(1), and has failed substantially to provide medically necessary items and services that are required (under law or the contract with the State under title XIX) to be provided to individuals covered under that plan or waiver, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) these individuals; or

(D) is an entity providing items and services as an eligible organization under a risk-sharing contract under section 1876 and has failed substantially to provide medically necessary items and services that are required (under law or such contract) to be provided to individuals covered under the risk-sharing contract, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) these individuals.

(7) FRAUD, KICKBACKS, AND OTHER PROHIBITED ACTIVITIES.—Any individual or entity that the Secretary determines has committed an act which is described in section 1128A or section 1128B.

(8) ENTITIES CONTROLLED BY A SANCTIONED INDIVIDUAL.—Any entity with respect to which the Secretary determines that a person—

(A)(i) who has a direct or indirect ownership or control interest of 5 percent or more in the entity or with an ownership or control interest (as defined in section 1124(a)(3)) in that entity, or

(ii) who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of that entity—

is a person—

(B)(i) who has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection;

(ii) against whom a civil monetary penalty has been assessed under section 1128A; or

(iii) who has been excluded from participation under a program under title XVIII or under a State health care program.[2]

(9) FAILURE TO DISCLOSE REQUIRED INFORMATION.—Any entity that did not fully and accurately make any disclosure required by section 1124, section 1124A,[3] or section 1126.

(10) FAILURE TO SUPPLY REQUESTED INFORMATION ON SUBCONTRACTORS AND SUPPLIERS.—Any disclosing entity (as defined in section 1124(a)(2)) that fails to supply (within such period as may be specified by the Secretary in regulations) upon request specifically addressed to the entity by the Secretary or by the State agency administering or supervising the administration of a State health care program—

(A) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom the entity has had, during the previous 12 months, business transactions in an aggregate amount in excess of $25,000, or

(B) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between the entity and any wholly owned supplier or between the entity and any subcontractor.

(11) FAILURE TO SUPPLY PAYMENT INFORMATION.—Any individual or entity furnishing items or services for which payment may be made under title XVIII or a State health care program that fails to provide such information as the Secretary or the appropriate State agency finds necessary to determine whether such payments are or were due and the amounts thereof, or has refused to permit such examination of its records by or on behalf of the Secretary or that agency as may be necessary to verify such information.

(12) FAILURE TO GRANT IMMEDIATE ACCESS.—Any individual or entity that fails to grant immediate access, upon reasonable request (as defined by the Secretary in regulations) to any of the following:

(A) To the Secretary, or to the agency used by the Secretary, for the purpose specified in the first sentence of section 1864(a) (relating to compliance with conditions of participation or payment).

(B) To the Secretary or the State agency, to perform the reviews and surveys required under State plans under paragraphs (26), (31), and (33) of section 1902(a) and under section 1903(g).

(C) To the Inspector General of the Department of Health and Human Services, for the purpose of reviewing records, documents, and other data necessary to the performance of the statutory functions of the Inspector General.

(D) To a State medicaid fraud control unit (as defined in section 1903(q)), for the purpose of conducting activities described in that section.

(13) FAILURE TO TAKE CORRECTIVE ACTION.—Any hospital that fails to comply substantially with a corrective action required under section 1886(f)(2)(B).

(14) DEFAULT ON HEALTH EDUCATION LOAN OR SCHOLARSHIP OBLIGATIONS.—Any individual who the Secretary determines is in default on repayments of scholarship obligations or loans in connection with health professions education made or secured, in whole or in part, by the Secretary and with respect to whom the Secretary has taken all reasonable steps available to the Secretary to secure repayment of such obligations or loans, except that (A) the Secretary shall not exclude pursuant to this paragraph a physician who is the sole community physician or sole source of essential specialized services in a community if a State requests that the physician not be excluded, and (B) the Secretary shall take into account, in determining whether to exclude any other physician pursuant to this paragraph, access of beneficiaries to physician services for which payment may be made under title XVIII or XIX.

(c) NOTICE, EFFECTIVE DATE, AND PERIOD OF EXCLUSION.—(1) An exclusion under this section or under section 1128A shall be effective at such time and upon such reasonable notice to the public and to the individual or entity excluded as may be specified in regulations consistent with paragraph (2).

(2)(A) Except as provided in subparagraph (B), such an exclusion shall be effective with respect to services furnished to an individual on or after the effective date of the exclusion.

(B) Unless the Secretary determines that the health and safety of individuals receiving services warrants the exclusion taking effect earlier, an exclusion shall not apply to payments made under title XVIII or under a State health care program for—

(i) inpatient institutional services furnished to an individual who was admitted to such institution before the date of the exclusion, or

(ii) home health services and hospice care furnished to an individual under a plan of care established before the date of the exclusion, until the passage of 30 days after the effective date of the exclusion.

(3)(A) The Secretary shall specify, in the notice of exclusion under paragraph (1) and the written notice under section 1128A, the minimum period (or, in the case of an exclusion of an individual under subsection (b)(12), the period) of the exclusion.

(B) In the case of an exclusion under subsection (a), the minimum period of exclusion shall be not less than five years, except that, upon the request of a State, the Secretary may waive the exclusion under subsection (a)(1) in the case of an individual or entity that is the sole community physician or sole source of essential specialized services in a community. The Secretary's decision whether to waive the exclusion shall not be reviewable.

(C) In the case of an exclusion of an individual under subsection (b)(12), the period of the exclusion shall be equal to the sum of—

(i) the length of the period in which the individual failed to grant the immediate access described in that subsection, and

(ii) an additional period, not to exceed 90 days, set by the Secretary.

(d) NOTICE TO STATE AGENCIES AND EXCLUSION UNDER STATE HEALTH CARE PROGRAMS.—(1) Subject to paragraph (3), the Secretary shall exercise the authority under this section and section 1128A in a manner that results in an individual's or entity's exclusion from all the programs under title XVIII and all the State health care programs in which the individual or entity may otherwise participate.

(2) The Secretary shall promptly notify each appropriate State agency administering or supervising the administration of each State health care program (and, in the case of an exclusion effected pursuant to subsection (a) and to which section 304(a)(5) of the Controlled Substances Act[4] may apply, the Attorney

General)—

(A) of the fact and circumstances of each exclusion effected against an individual or entity under this section or section 1128A, and

(B) of the period (described in paragraph (3)) for which the State agency is directed to exclude the individual or entity from participation in the State health care program.

(3)(A) Except as provided in subparagraph (B), the period of the exclusion under a State health care program under paragraph (2) shall be the same as any period of exclusion under title XVIII.

(B)(i) The Secretary may waive an individual's or entity's exclusion under a State health care program under paragraph (2) if the Secretary receives and approves a request for the waiver with respect to the individual or entity from the State agency administering or supervising the administration of the program.

(ii) A State health care program may provide for a period of exclusion which is longer than the period of exclusion under title XVIII.

(e) NOTICE TO STATE LICENSING AGENCIES.—The Secretary shall—

(1) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of an individual or entity excluded (or directed to be excluded) from participation under this section or section 1128A, of the fact and circumstances of the exclusion,

(2) request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and

(3) request that the State or local agency or authority keep the Secretary and the Inspector General of the Department of Health and Human Services fully and currently informed with respect to any actions taken in response to the request.

(f) NOTICE, HEARING, AND JUDICIAL REVIEW.—(1) Subject to paragraph (2), any individual or entity that is excluded (or directed to be excluded) from participation under this section is entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

(2) Unless the Secretary determines that the health or safety of individuals receiving services warrants the exclusion taking effect earlier, any individual or entity that is the subject of an adverse determination under subsection (b)(7) shall be entitled to a hearing by an administrative law judge (as provided under section 205(b)) on the determination under subsection (b)(7) before any exclusion based upon the determination takes effect.

(3) The provisions of section 205(h) shall apply with respect to this section and sections 1128A and 1156 to the same extent as it is applicable with respect to title II.

(g) APPLICATION FOR TERMINATION OF EXCLUSION.—(1) An individual or entity excluded (or directed to be excluded) from participation under this section or section 1128A may apply to the Secretary, in the manner specified by the Secretary in regulations and at the end of the minimum period of exclusion provided under subsection (c)(3) and at such other times as the Secretary may provide, for termination of the exclusion effected under this section or section 1128A.

(2) The Secretary may terminate the exclusion if the Secretary determines, on the basis of the conduct of the applicant which occurred after the date of the notice of exclusion or which was unknown to the Secretary at the time of the exclusion, that—

(A) there is no basis under subsection (a) or (b) or section 1128A(a) for a continuation of the exclusion, and

(B) there are reasonable assurances that the types of actions which formed the basis for the original exclusion have not recurred and will not recur.

(3) The Secretary shall promptly notify each appropriate State agency administering or supervising the administration of each State health care program (and, in the case of an exclusion effected pursuant to subsection (a) and to which section 304(a)(5) of the Controlled Substances Act[5] may apply, the Attorney General) of the fact and circumstances of each termination of exclusion made under this subsection.

(h) DEFINITION OF STATE HEALTH CARE PROGRAM.—For purposes of this section and sections 1128A and 1128B, the term "State health care program" means—

(1) a State plan approved under title XIX,

(2) any program receiving funds under title V or from an allotment to a State under such title, or

(3) any program receiving funds under title XX or from an allotment to a State under such title.

(i) CONVICTED DEFINED.—For purposes of subsections (a) and (b), an individual or entity is considered to have been "convicted" of a criminal offense—

(1) when a judgment of conviction has been entered against the individual or entity by a Federal, State, or local court, regardless of whether there is an appeal pending or whether the judgment of conviction or other record relating to criminal conduct has been expunged;

(2) when there has been a finding of guilt against the individual or entity by a Federal, State, or local court;

(3) when a plea of guilty or nolo contendere by the individual or entity has been accepted by a Federal, State, or local court; or

(4) when the individual or entity has entered into participation in a first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld.

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[1] P.L. 102-54, §13(q)(3)(A)(ii), struck out "Veterans' Administration" and substituted "Department of Veterans Affairs", effective June 13, 1991.

[2] For purposes of §1128(b)(8)(B)(iii), a person shall be considered to have been excluded from participation under a program under title XVIII if payment to the person has been denied under section 1862(d) as in effect before September 1, 1987.

[3] P.L. 101-508, §4164(b)(3), inserted ", section 1124A,". For the effective date, see Vol. II, P.L. 101-508, §4164(b)(4).

[4] P.L. 91-513; Title II.

[5] P.L. 91-513; Title II.

CIVIL MONETARY PENALTIES

SEC. 1128A. [42 U.S.C. 1320a-7a] (a) Any person (including an organization, agency, or other entity, but excluding a beneficiary, as defined in subsection (i)(5)) that—

(1) presents or causes to be presented to an officer, employee, or agent of the United States, or of any department or agency thereof, or of any State agency (as defined in subsection (i)[1](1)), a claim (as defined in subsection (i)[2] (2)) that the Secretary determines—

(A) is for a medical or other item or service that the person knows or should know was not provided as claimed,

(B) is for a medical or other item or service and the person knows or should know the claim is false or fraudulent,

(C) is presented for a physician's service (or an item or service incident to a physician's service) by a person who knows or should know that the individual who furnished (or supervised the furnishing of) the service—

(i) was not licensed as a physician,

(ii) was licensed as a physician, but such license had been obtained through a misrepresentation of material fact (including cheating on an examination required for licensing), or

(iii) represented to the patient at the time the service was furnished that the physician was certified in a medical specialty by a medical specialty board when the individual was not so certified, or

(D) is for a medical or other item or service furnished during a period in which the person was excluded from the program under which the claim was made pursuant to a determination by the Secretary under this section or under section 1128, 1156, 1160(b) (as in effect on September 2, 1982), 1862(d) (as in effect on the date of the enactment of the Medicare and Medicaid Patient and Program Protection Act of 1987[3]), or 1866(b) or as a result of the application of the provisions of section 1842(j)(2); or[4]

(2) presents or causes to be presented to any person a request for payment which is in violation of the terms of (A) an assignment under section 1842(b)(3)(B)(ii), or (B) an agreement with a State agency (or other requirement of a State plan under title XIX) not to charge a person for an item or service in excess of the amount permitted to be charged, or (C) an agreement to be a participating physician or supplier under section 1842(h)(1)[5], or (D) an agreement pursuant to section 1866(a)(1)(G), or[6]

(3) gives to any person, with respect to coverage under title XVIII of inpatient hospital services subject to the provisions of

section 1886, information that he knows or should know is false or misleading, and that could reasonably be expected to influence the decision when to discharge such person or another individual from the hospital;[7]

[(4) Repealed.[8]]

shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $2,000 for each item or service (or, in cases under paragraph (3), $15,000 for each individual with respect to whom false or misleading information was given). In addition, such a person shall be subject to an assessment of not more than twice the amount claimed for each such item or service in lieu of damages sustained by the United States or a State agency because of such claim. In addition the Secretary may make a determination in the same proceeding to exclude the person from participation in the programs under title XVIII and to direct the appropriate State agency to exclude the person from participation in any State health care program.

(b)(1) If a hospital or a rural primary care hospital[9] knowingly makes a payment, directly or indirectly, to a physician as an inducement to reduce or limit services provided with respect to individuals who—

(A) are entitled to benefits under part A or part B of title XVIII or to medical assistance under a State plan approved under title XIX, and[10]

(B)[11] are under the direct care of the physician, the hospital or a rural primary care hospital[12] shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $2,000 for each such individual with respect to whom the payment is made.

(2) Any physician who knowingly accepts receipt of a payment described in paragraph (1) shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than $2,000 for each individual described in such paragraph with respect to whom the payment is made.[13]

(c)[14] (1) The Secretary may initiate a proceeding to determine whether to impose a civil money penalty, assessment, or exclusion under subsection (a) or (b)[15] only as authorized by the Attorney General pursuant to procedures agreed upon by them. The Secretary may not initiate an action under this section with respect to any claim, request for payment, or other occurrence described in this section later than six years after the date the claim was presented, the request for payment was made, or the occurrence took place. The Secretary may initiate an action under this section by serving notice of the action in any manner authorized by Rule 4 of the Federal Rules of Civil Procedure.

(2) The Secretary shall not make a determination adverse to any person under subsection (a) or (b)[16] until the person has been given written notice and an opportunity for the determination to

be made on the record after a hearing at which the person is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against the person.

(3) In a proceeding under subsection (a) or (b) which—

(A) is against a person who has been convicted (whether upon a verdict after trial or upon a plea of guilty or nolo contendere) of a Federal crime charging fraud or false statements, and

(B) involves the same transaction as in the criminal action, the person is estopped from denying the essential elements of the criminal offense.

(4) The official conducting a hearing under this section may sanction a person, including any party or attorney, for failing to comply with an order or procedure, failing to defend an action, or other misconduct as would interfere with the speedy, orderly, or fair conduct of the hearing. Such sanction shall reasonably relate to the severity and nature of the failure or misconduct. Such sanction may include—

(A) in the case of refusal to provide or permit discovery, drawing negative factual inferences or treating such refusal as an admission by deeming the matter, or certain facts, to be established,

(B) prohibiting a party from introducing certain evidence or otherwise supporting a particular claim or defense,

(C) striking pleadings, in whole or in part,

(D) staying the proceedings,

(E) dismissal of the action,

(F) entering a default judgment,

(G) ordering the party or attorney to pay attorneys' fees and other costs caused by the failure or misconduct, and

(H) refusing to consider any motion or other action which is not filed in a timely manner.

(d)[17] In determining the amount or scope of any penalty, assessment, or exclusion imposed pursuant to subsection (a) or (b)[18], the Secretary shall take into account—

(1) the nature of claims and the circumstances under which they were presented,

(2) the degree of culpability, history of prior offenses, and financial condition of the person presenting the claims, and

(3) such other matters as justice may require.

(e)[19] Any person adversely affected by a determination of the Secretary under this section may obtain a review of such determination in the United States Court of Appeals for the circuit in which the person resides, or in which the claim was presented, by filing in such court (within sixty days following the date the person is notified of the Secretary's determination) a written petition requesting that the determination be modified or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the Court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have the power to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, remanding for further consideration, or setting aside, in whole or in part, the determination of the Secretary and enforcing the same to the extent that such order is affirmed or modified. No objection that has not been urged before the Secretary shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances. The findings of the Secretary with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be made a part of the record. The Secretary may modify his findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and he shall file with the court such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive, and his recommendations, if any, for the modification or setting aside of his original order. Upon the filing of the record with it, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code.

(f)[20] Civil money penalties and assessments imposed under this section may be compromised by the Secretary and may be recovered in a civil action in the name of the United States brought in United States district court for the district where the claim was presented, or where the claimant resides, as determined by the Secretary. Amounts recovered under this section shall be paid to the Secretary and disposed of as follows:

(1)(A) In the case of amounts recovered arising out of a claim under title XIX, there shall be paid to the State agency an amount bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid for such claim.

(B) In the case of amounts recovered arising out of a claim under an allotment to a State under title V, there shall be paid to the State agency an amount equal to three-sevenths of the amount recovered.

(2) Such portion of the amounts recovered as is determined to have been paid out of the trust funds under sections 1817 and 1841 shall be repaid to such trust funds.

(3) The remainder of the amounts recovered shall be deposited as miscellaneous receipts of the Treasury of the United States. The amount of such penalty or assessment, when finally determined, or the amount agreed upon in compromise, may be deducted from any sum then or later owing by the United States or a State agency to the person against whom the penalty or assessment has been assessed.

(g)[21] A determination by the Secretary to impose a penalty, assessment, or exclusion under subsection (a) or (b)[22] shall be final upon the expiration of the sixty-day period referred to in subsection (e). Matters that were raised or that could have been raised in a hearing before the Secretary or in an appeal pursuant to subsection (e)[23] may not be raised as a defense to a civil action by the United States to collect a penalty, assessment, or exclusion assessed under this section.

(h)[24] Whenever the Secretary's determination to impose a penalty, assessment, or exclusion under subsection (a) or (b)[25] becomes final, he shall notify the appropriate State or local medical or professional organization, the appropriate State agency or agencies administering or supervising the administration of State health care programs (as defined in section 1128(h)), and the appropriate utilization and quality control peer review organization, and the appropriate State or local licensing agency or organization (including the agency specified in section 1864(a) and 1902(a)(33)) that such a penalty, assessment, or exclusion has become final and the reasons therefor.

(i)[26] For the purposes of this section:

(1) The term "State agency" means the agency established or designated to administer or supervise the administration of the State plan under title XIX of this Act or designated to administer the State's program under title V or title XX of this Act.

(2) The term "claim" means an application for payments for items and services under title V, XVIII, XIX, or XX of this Act.

(3) The term "item or service" includes (A) any particular item, device, medical supply, or service claimed to have been provided to a patient and listed in an itemized claim for payment, and (B) in the case of a claim based on costs, any entry in the cost report, books of account or other documents supporting such claim.

(4) The term "agency of the United States" includes any contractor acting as a fiscal intermediary, carrier, or fiscal agent or any other claims processing agent for a health insurance or medical services program under title XVIII or XIX of this Act.

(5) The term "beneficiary" means an individual who is

eligible to receive items or services for which payment may be made under title V, XVIII, XIX, or XX but does not include a provider, supplier, or practitioner.

(j)(1)[27] The provisions of subsections (d) and (e) of section 205 shall apply with respect to this section to the same extent as they are applicable with respect to title II. The Secretary may delegate the authority granted by section 205(d) (as made applicable to this section) to the Inspector General of the Department of Health and Human Services for purposes of any investigation under this section.

(2) The Secretary may delegate authority granted under this section and under section 1128 to the Inspector General of the Department of Health and Human Services.[28]

(k) Whenever the Secretary has reason to believe that any person has engaged, is engaging, or is about to engage in any activity which makes the person subject to a civil monetary penalty under this section, the Secretary may bring an action in an appropriate district court of the United States (or, if applicable, a United States court of any territory) to enjoin such activity, or to enjoin the person from concealing, removing, encumbering, or disposing of assets which may be required in order to pay a civil monetary penalty if any such penalty were to be imposed or to seek other appropriate relief.

(l) A principal is liable for penalties, assessments, and an exclusion under this section for the actions of the principal's agent acting within the scope of the agency.

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[1] P.L. 99-509, §9313(c)(1)(B), struck out "(h)" and substituted "(i)", applicable to payments by hospitals occurring more than 6 months after October 21, 1986, and payments by eligible organizations or entities occurring on or after April 1, 1991*.

*P.L. 100-203, §4016, changed "1989" to "1990", effective December 22, 1987. P.L. 101-239, §6207(a), struck out "1990" and substituted "1991", effective December 19, 1989.

[2] P.L. 99-509, §9313(c)(1)(B), struck out "(h)" and substituted "(i)", applicable to payments by hospitals occurring more than 6 months after October 21, 1986, and payments by eligible organizations or entities occurring on or after April 1, 1991*.

*P.L. 100-203, §4016, changed "1989" to "1990", effective December 22, 1987. P.L. 101-239, §6207(a), struck out "1990" and substituted "1991", effective December 19, 1989.

[3] August 18, 1987 [P.L. 100-93].

[4] P.L. 101-234, §201(a)(1), inserted "or".

[5] P.L. 100-360, §202(c)(2)(B), inserted "or to be a participating pharmacy under section 1842(o)", applicable to items dispensed on or after January 1, 1990. P.L. 101-234, §201(a)(1), repealed P.L. 100-360, §202, effective January 1, 1990.

[6] P.L. 101-234, §201(a)(1), struck out the semicolon and substituted ",or".

[7] P.L. 101-234, §201(a)(1), struck out "or".

[8] P.L. 100-360, §202(c)(2)(E), added paragraph (4), applicable to items dispensed on or after January 1, 1990. P.L. 101-234, §201(a)(1), repealed P.L. 100-360, §202, effective January 1, 1990. [For paragraph (4) as it formerly read, see Vol. III, P.L. 101-234.]

[9] P.L. 101-239, §6003(g)(3)(D)(i), inserted "or a rural primary care hospital", effective December 19, 1989. P.L. 101-508, §4204(a)(3)(A), struck out ", an eligible organization with a risk-sharing contract under section 1876,", effective November 5, 1990. P.L. 101-508, §4731(b)(1), struck out "or an entity with a contract under section 1903(m)", effective November 5, 1990.

[10] P.L. 101-508, §4204(a)(3)(B), added "and".

[11] P.L. 101-508, §4204(a)(3)(C), struck out subparagraph (B), effective November 5, 1990. [For subparagraph (B) as it reads until then, see Vol. III, P.L. 101-508.] P.L. 101-508, §4204(a)(3)(D), redesignated subparagraph (C) as subparagraph (B).

[12] P.L. 101-239, §6003(g)(3)(D)(i), inserted "or a rural primary care hospital", effective December 19, 1989. P.L. 101-508, §4204(a)(3)(E), struck out "or organization", effective November 5, 1990.

[13] P.L. 99-509, §9313(c)(1)(E), added this subsection (b), applicable to payments by hospitals occurring more than 6 months after October 21, 1986, and payments by eligible organizations or entities occurring on or after April 1, 1991*.

*P.L. 100-203, §4016, changed "1989" to "1990", effective December 22, 1987. P.L. 101-239, §6207(a), struck out "1990" and substituted "1991", effective December 19, 1989.

[14] P.L. 99-509, §9313(c)(1)(D), redesignated the former subsection (b) as subsection (c), applicable to payments by hospitals occurring more than 6 months after October 21, 1986, and payments by eligible organizations or entities occurring on or after April 1, 1991*.

*P.L. 100-203, §4016, changed "1989" to "1990", effective December 22, 1987. P.L. 101-239, §6207(a), struck out "1990" and substituted "1991", effective December 19, 1989.

[15] P.L. 99-509, §9313(c)(1)(A), inserted "or (b)", applicable to payments by hospitals occurring more than 6 months after October 21, 1986, and payments by eligible organizations or entities occurring on or after April 1, 1991*.

*P.L. 100-203, §4016, changed "1989" to "1990", effective December 22, 1987. P.L. 101-239, §6207(a), struck out "1990" and substituted "1991", effective December 19, 1989.

[16] P.L. 99-509, §9313(c)(1)(A), inserted "or (b)", applicable to payments by hospitals occurring more than 6 months after October 21, 1986, and payments by eligible organizations or entities occurring on or after April 1, 1991*.

*P.L. 100-203, §4016, changed "1989" to "1990", effective December 22, 1987. P.L. 101-239, §6207(a), struck out "1990" and substituted "1991", effective December 19, 1989.

[17] P.L. 99-509, §9313(c)(1)(D), redesignated the former subsection (c) as subsection (d), applicable to payments by hospitals occurring more than 6 months after October 21, 1986, and payments by eligible organizations or entities occurring on or after April 1, 1991*.

*P.L. 100-203, §4016, changed "1989" to "1990", effective December 22, 1987. P.L. 101-239, §6207(a), struck out "1990" and substituted "1991", effective December 19, 1989.

[18] P.L. 99-509, §9313(c)(1)(A), inserted "or (b)", applicable to payments by hospitals occurring more than 6 months after October 21, 1986, and payments by eligible organizations or entities occurring on or after April 1, 1991*.

*P.L. 100-203, §4016, changed "1989" to "1990", effective December 22, 1987. P.L. 101-239, §6207(a), struck out "1990" and substituted "1991", effective December 19, 1989.

[19] P.L. 99-509, §9313(c)(1)(D), redesignated the former subsection (d) as subsection (e), applicable to payments by hospitals occurring more than 6 months after October 21, 1986, and payments by eligible organizations or entities occurring on or after April 1, 1991*.

*P.L. 100-203, §4016, changed "1989" to "1990", effective December 22, 1987. P.L. 101-239, §6207(a), struck out "1990" and substituted "1991", effective December 19, 1989.

[20] P.L. 99-509, §9313(c)(1)(D), redesignated the former subsection (e) as subsection (f), applicable to payments by hospitals occurring more than 6 months after October 21, 1986, and payments by eligible organizations or entities occurring on or after April 1, 1991*.

*P.L. 100-203, §4016, changed "1989" to "1990", effective December 22, 1987. P.L. 101-239, §6207(a), struck out "1990" and substituted "1991", effective December 19, 1989.

[21] P.L. 99-509, §9313(c)(1)(D), redesignated the former subsection (f) as subsection (g), applicable to payments by hospitals occurring more than 6 months after October 21, 1986, and payments by eligible organizations or entities occurring on or after April 1, 1991*.

*P.L. 100-203, §4016, changed "1989" to "1990", effective December 22, 1987. P.L. 101-239, §6207(a), struck out "1990" and substituted "1991", effective December 19, 1989.

[22] P.L. 99-509, §9313(c)(1)(A), inserted "or (b)", applicable to payments by hospitals occurring more than 6 months after October 21, 1986, and payments by eligible organizations or entities occurring on or after April 1, 1991*.

*P.L. 100-203, §4016, changed "1989" to "1990", effective December 22, 1987. P.L. 101-239, §6207(a), struck out "1990" and substituted "1991", effective December 19, 1989.

[23] P.L. 99-509, §9313(c)(1)(C), struck out "(d)" and substituted "(e)", applicable to payments by hospitals occurring more than 6 months after October 21, 1986, and payments by eligible organizations or entities occurring on or after April 1, 1991*.

*P.L. 100-203, §4016, changed "1989" to "1990", effective December 22, 1987. P.L. 101-239, §6207(a), struck out "1990" and substituted "1991", effective December 19, 1989.

[24] P.L. 99-509, §9313(c)(1)(D), redesignated the former subsection (g) as subsection (h), applicable to payments by hospitals occurring more than 6 months after October 21, 1986, and payments by eligible organizations or entities occurring on or after April 1, 1991*.

*P.L. 100-203, §4016, changed "1989" to "1990", effective December 22, 1987. P.L. 101-239, §6207(a), struck out "1990" and substituted "1991", effective December 19, 1989.

[25] P.L. 99-509, §9313(c)(1)(A), inserted "or (b)", applicable to payments by hospitals occurring more than 6 months after October 21, 1986, and payments by eligible organizations or entities occurring on or after April 1, 1991*.

*P.L. 100-203, §4016, changed "1989" to "1990", effective December 22, 1987. P.L. 101-239, §6207(a), struck out "1990" and substituted "1991", effective December 19, 1989.

[26] P.L. 99-509, §9313(c)(1)(D), redesignated the former subsection (h) as subsection (i), applicable to payments by hospitals occurring more than 6 months after October 21, 1986, and payments by eligible organizations or entities occurring on or after April 1, 1991*.

*P.L. 100-203, §4016, changed "1989" to "1990", effective December 22, 1987. P.L. 101-239, §6207(a), struck out "1990" and substituted "1991", effective December 19, 1989.

[27] P.L. 101-508, §4027(sic)(h)(i), struck out "(j)" and substituted "(j)(1)", effective November 5, 1990. P.L. 101-508, §4753(1), made the same amendment.

[28] P.L. 101-508, §4027(sic)(h)(ii), added paragraph (2), effective November 5, 1990. P.L. 101-508, §4753(2), made the same amendment.

OBLIGATIONS OF HEALTH CARE PRACTITIONERS AND PROVIDERS OF HEALTH CARE SERVICES; SANCTIONS AND PENALTIES; HEARINGS AND REVIEW[1]

SEC. 1156. [42 U.S.C. 1320c-5] (a) It shall be the obligation of any health care practitioner and any other person (including a hospital or other health care facility, organization, or agency) who provides health care services for which payment may be made (in whole or in part) under this Act, to assure, to the extent of his authority that services or items ordered or provided by such practitioner or person to beneficiaries and recipients under this Act—

(1) will be provided economically and only when, and to the extent, medically necessary;

(2) will be of a quality which meets professionally recognized standards of health care; and

(3) will be supported by evidence of medical necessity and quality in such form and fashion and at such time as may reasonably be required by a reviewing peer review organization in the exercise of its duties and responsibilities.

(b)(1) If after reasonable notice and opportunity for discussion with the practitioner or person concerned, and, if appropriate, after the practitioner or person has been given a reasonable opportunity to enter into and complete a corrective action plan (which may include remedial education) agreed to by the organization, and has failed successfully to complete such plan,[2] any organization having a contract with the Secretary under this part determines that such practitioner or person has—

(A) failed in a substantial number of cases substantially to comply with any obligation imposed on him under subsection (a), or

(B) grossly and flagrantly violated any such obligation in one or more instances, such organization shall submit a report and recommendations to the Secretary. If the Secretary agrees with such determination, and determines that such practitioner or person, in providing health care services over which such organization has review responsibility and for which payment (in whole or in part) may be made under this Act, has demonstrated an unwillingness or a lack of ability substantially to comply with such obligations, the Secretary (in addition to any other sanction provided under law) may exclude (permanently or for such period as the Secretary may prescribe) such practitioner or person from eligibility to provide services under this Act on a reimbursable basis. In determining whether[3] a practitioner or person has demonstrated an unwillingness or lack of ability substantially to comply with such obligations, the Secretary shall consider the practitioner's or person's willingness or lack of ability, during the period before the organization submits its report and recommendations, to enter into and successfully complete a corrective action plan.[4] If the Secretary fails to act upon the recommendations submitted to him by such organization within 120 days after such submission, such practitioner or person shall be excluded from eligibility to provide services on a reimbursable basis until such time as the Secretary determines otherwise.

(2) A determination made by the Secretary under this subsection to exclude a practitioner or person shall be effective on the same date and in the same manner as an exclusion from participation under the programs under this Act becomes effective under section 1128(c), and shall remain in effect until the Secretary finds and gives reasonable notice to the public that the basis for such determination has been removed and that there is reasonable assurance that it will not recur.

(3) In lieu of the sanction authorized by paragraph (1), the Secretary may require that (as a condition to the continued eligibility of such practitioner or person to provide such health care services on a reimbursable basis) such practitioner or person pays to the United States, in case such acts or conduct involved the provision or ordering by such practitioner or person of health care services which were medically improper or unnecessary, an amount not in excess of the actual or estimated cost of the medically improper or unnecessary services so provided. Such amount may be deducted from any sums owing by the United States (or any instrumentality thereof) to the practitioner or person from whom such amount is claimed.

(4) Any practitioner or person furnishing services described in paragraph (1) who is dissatisfied with a determination made by the Secretary under this subsection shall be entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

(5) Before the Secretary may effect an exclusion under paragraph (2) in the case of a provider or practitioner located in a rural health professional shortage area[5] or in a county with a population of less than 70,000, the provider or practitioner adversely affected by the determination is entitled to a hearing before an administrative law judge (described in section 205(b)) respecting whether the provider or practitioner should be able to continue furnishing services to individuals entitled to benefits under this Act, pending completion of the administrative review procedure under paragraph (4). If the judge does not determine, by a preponderance of the evidence, that the provider or practitioner will pose a serious risk to such individuals if permitted to continue furnishing such services, the Secretary shall not effect the exclusion under paragraph (2) until the provider or practitioner has been provided reasonable notice and opportunity for an administrative hearing thereon under paragraph (4).[6]

(6) When the Secretary effects an exclusion of a physician under paragraph (2), the Secretary shall notify the State board responsible for the licensing of the physician of the exclusion.[7]

(c) It shall be the duty of each utilization and quality control peer review organization to use such authority or influence it may possess as a professional organization, and to enlist the support of any other professional or governmental organization having influence or authority over health care practitioners and any other person (including a hospital or other health care facility, organization, or agency) providing health care services in the area served by such review organization, in assuring that each practitioner or person (referred to in subsection (a)) providing health care services in such area shall comply with all obligations imposed on him under subsection (a).

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[1] See Vol. II, P.L. 100-203, §4095(c), with respect to a report on improvements in procedures for imposing sanctions.

[2] P.L. 101-508, §4205(a)(1)(A), inserted "and, if appropriate, after the practitioner or person has been given a reasonable opportunity to enter into and complete a corrective action plan (which may include remedial education) agreed to by the organization, and has failed successfully to complete such plan,", applicable to initial determinations made by organizations on or after November 5, 1990.

[3] As in original. Probably should be "whether".

[4] P.L. 101-508, §4205(a)(1)(B), added this sentence, applicable to initial determinations made by organizations on or after November 5, 1990.

[5] P.L. 101-597, §401(c)(1), struck out "health manpower shortage area (HMSA)" and substituted "health professional shortage area", effective November 16, 1990.

[6] See Vol. II, P.L. 100-203, §4095(c), with respect to the transition for current cases; and subsection (d), with respect to redeterminations in certain cases.

[7] P.L. 101-508, §4205(d)(2)(A), added paragraph (6), applicable to sanctions effected more than 60 days after November 5, 1990.

TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

MEANING OF TERMS

Aged, Blind, or Disabled Individual

SEC. 1614. [42 U.S.C. 1382c] (a)(1) For purposes of this title, the term "aged, blind, or disabled individual" means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the Immigration and Nationality Act,[1] or

(ii) is a child who is a citizen of the United States, who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States, and who, for the month before the parent reported for such assignment, received a benefit under this title.[2]

(2) An individual shall be considered to be blind for purposes of this title if he has central visual acuity of 20/200 or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this title if he is blind as defined under a State plan approved under title X or XVI as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) An individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months (or, in the case of an individual[3] under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity).

(B) For purposes of subparagraph (A), an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

(C) For purposes of this paragraph, a physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

(D) The Commissioner of Social Security[4] shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Commissioner of Social Security[5] in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Commissioner of Social Security[6] may prescribe. Notwithstanding the provisions of subparagraph (B), an individual whose services or earnings meet such criteria shall be found not to be disabled. The Secretary[7] shall make determinations under this title with respect to substantial gainful activity, without regard to the legality of the activity.[8]

(E) Notwithstanding the provisions of subparagraphs (A) through (D), an individual shall also be considered to be disabled for purposes of this title if he is permanently and totally disabled as defined under a State plan approved under title XIV or XVI as in effect for October 1972 and received aid under such plan (on the basis of disability) for December 1973 (and for at least one month prior to July 1973), so long as he is continuously disabled as so defined.

(F) In determining whether an individual's physical or mental impairment or impairments are of a sufficient medical severity that such impairment or impairments could be the basis of eligibility under this section, the Commissioner of Social Security[9] shall consider the combined effect of all of the individual's impairments without regard to whether any such impairment, if considered separately, would be of such severity. If the Commissioner of Social Security[10] does find a medically severe combination of impairments, the combined impact of the impairments shall be considered throughout the disability determination process.

(G) In making determinations with respect to disability under this title, the provisions of sections 221(h), 221(k), and 223(d)(5) shall apply in the same manner as they apply to determinations of disability under title II.

(H) In making any determination under this title with respect to the disability of an individual.[11] who has not attained the age of 18 years and to whom section 221(h) does not apply, the Commissioner of Social Security[12] shall make reasonable efforts to ensure that a qualified pediatrician or other individual who specializes in a field of medicine appropriate to the disability of the individual[13] (as determined by the Commissioner of Social Security[14]) evaluates the case of such individual.[15]

(4) A recipient of benefits based on disability under this title may be determined not to be entitled to such benefits on the basis of a finding that the physical or mental impairment on the basis of which such benefits are provided has ceased, does not exist, or is not disabling only if such finding is supported by—

(A) substantial evidence which demonstrates that—

(i) there has been any medical improvement in the individual's impairment or combination of impairments (other than medical improvement which is not related to the individual's ability to work), and

(ii) the individual is now able to engage in substantial gainful activity; or

(B) substantial evidence (except in the case of an individual eligible to receive benefits under section 1619) which—

(i) consists of new medical evidence and a new assessment of the individual's residual functional capacity, and demonstrates that—

(I) although the individual has not improved medically, he or she is nonetheless a beneficiary of advances in medical or vocational therapy or technology (related to the individual's ability to work), and

(II) the individual is now able to engage in substantial gainful activity, or

(ii) demonstrates that—

(I) although the individual has not improved medically, he or she has undergone vocational therapy (related to the individual's ability to work), and

(II) the individual is now able to engage in substantial gainful activity; or

(C) substantial evidence which demonstrates that, as determined on the basis of new or improved diagnostic techniques or evaluations, the individual's impairment or combination of impairments is not as disabling as it was considered to be at the time of the most recent prior decision that he or she was under a disability or continued to be under a disability, and that therefore the individual is able to engage in substantial gainful activity; or

(D) substantial evidence (which may be evidence on the record at the time any prior determination of the entitlement to benefits based on disability was made, or newly obtained evidence which relates to that determination) which demonstrates that a prior determination was in error. The Commissioner of Social Security[16] shall make determinations under this title with respect to substantial gainful activity, without regard to the legality of the activity.[17]

Nothing in this paragraph shall be construed to require a determination that an individual receiving benefits based on disability under this title is entitled to such benefits if the prior determination was fraudulently obtained or if the individual is engaged in substantial gainful activity, cannot be located, or fails, without good cause, to cooperate in a review of his or her entitlement or to follow prescribed treatment which would be expected to restore his or her ability to engage in substantial gainful activity. Any determination under this paragraph shall be made on the basis of all the evidence available in the individual's case file, including new evidence concerning the individual's prior or current condition which is presented by the individual or secured by the Commissioner of Social Security.[18] Any determination made under this paragraph shall be made on the basis of the weight of the evidence and on a neutral basis with regard to the individual's condition, without any initial inference as to the presence or absence of disability being drawn from the fact that the individual has previously been determined to be disabled.

Eligible Spouse

(b) For purposes of this title, the term "eligible spouse" means an aged, blind, or disabled individual who is the husband or wife of another aged, blind, or disabled individual, and who, in a month, is living with such aged, blind, or disabled individual on the first day of the month or, in any case in which either spouse files an application for benefits or requests restoration of eligibility under this title during the month, at the time the application or request is filed. If two aged, blind, or disabled individuals are husband and wife as described in the preceding sentence, only one of them may be an "eligible individual" within the meaning of section 1611(a).

Definition of Child

(c) For purposes of this title, the term "child" means an individual who is neither married nor (as determined by the Commissioner of Social Security[19]) the head of a household, and who is (1) under the age of eighteen, or (2) under the age of twenty-two and (as determined by the Commissioner of Social Security[20]) a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment.

Determination of Marital Relationships

(d) In determining whether two individuals are husband and wife for purposes of this title, appropriate State law shall be applied; except that—

(1) if a man and woman have been determined to be husband and wife under section 216(h)(1) for purposes of title II they shall be considered (from and after the date of such determination or the date of their application for benefits under this title, whichever is later) to be husband and wife for purposes of this title, or

(2) if a man and woman are found to be holding themselves out to the community in which they reside as husband and wife, they shall be so considered for purposes of this title notwithstanding any other provision of this section.

United States

(e) For purposes of this title, the term "United States", when used in a geographical sense, means the 50 States and the District of Columbia.

Income and Resources of Individuals Other Than Eligible Individuals and Eligible Spouses

(f)(1) For purposes of determining eligibility for and the amount of benefits for any individual who is married and whose spouse is living with him in the same household but is not an eligible spouse, such individual's income and resources shall be deemed to include any income and resources of such spouse, whether or not available to such individual, except to the extent determined by the Commissioner of Social Security[21] to be inequitable under the circumstances.

(2)(A) For purposes of determining eligibility for and the amount of benefits for any individual who is a child under age 18, such individual's income and resources shall be deemed to include any income and resources of a parent of such individual (or the spouse of such a parent) who is living in the same household as such individual, whether or not available to such individual, except to the extent determined by the Commissioner of Social Security[22] to be inequitable under the circumstances.

(B) Subparagraph (A) shall not apply in the case of any child who has not attained the age of 18 years who—

(i) is disabled;

(ii) received benefits under this title, pursuant to section 1611(e)(1)(B), while in an institution described in section 1611(e)(1)(B);

(iii) is eligible for medical assistance under a State home care plan approved by the Secretary[23] under the provisions of section 1915(c) relating to waivers, or authorized under section 1902(e)(3); and

(iv) but for this subparagraph, would not be eligible for benefits under this title.

(3) For purposes of determining eligibility for and the amount of benefits for any individual who is an alien, such individual's income and resources shall be deemed to include the income and resources of his sponsor and such sponsor's spouse (if such alien has a sponsor) as provided in section 1621. Any such income deemed to be income of such individual shall be treated as unearned income of such individual.

(4) For purposes of paragraphs (1) and (2), a spouse or parent (or spouse of such a parent) who is absent from the household in which the individual lives due solely to a duty assignment as a member of the Armed Forces on active duty shall, in the absence of evidence to the contrary, be deemed to be living in the same household as the individual.[24]

REHABILITATION SERVICES FOR BLIND AND DISABLED INDIVIDUALS

SEC. 1615. [42 U.S.C. 1382d] (a) In the case of any blind or disabled individual who-

(1) has not attained age 65, and

(2) is receiving benefits (or with respect to whom benefits are paid) under this title,

the Commissioner of Social Security[25] shall make provision for referral of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973,[26] or, in the case of any such individual who has not attained age 16, to the State agency administering the State program under title V, and (except for individuals who have not attained age 16 and except in such other cases as he may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the services made available to him under such plan.

[(b) Repealed.[27]]

(c) Every individual age 16 or over with respect to whom the Commissioner of Social Security[28] is required to make provision for referral under subsection (a) shall accept such services as are made available to him under the State plan for vocational and rehabilitation services approved under title I of the Rehabilitation Act of 1973; and no such individual shall be an eligible individual or eligible spouse for purposes of this title if he refuses without good cause to accept services for which he is referred under subsection (a).

(d) The Commissioner of Social Security[29] is authorized to reimburse the State agency administering or supervising the administration of a State plan for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973 for the costs incurred under such plan in the provision of rehabilitation services to individuals who are referred for such services pursuant to subsection (a)(1) in cases where the furnishing of such services results in the performance by such individuals of substantial gainful activity for a continuous period of nine months, (2) in cases where such individuals receive benefits as a result of section 1631(a)(6) (except that no reimbursement under this subsection shall be made for services furnished to any individual receiving such benefits for any period after the close of such individual's ninth consecutive month of substantial gainful activity or the close of the month with which his or her entitlement to such benefits ceases, whichever first occurs), and (3) in cases where such individuals, without good cause, refuse to continue to accept vocational rehabilitation services or fail to cooperate in such a manner as to preclude their successful rehabilitation. The determination that the vocational rehabilitation services contributed to the successful return of an individual to substantial gainful activity, the determination that an individual, without good cause, refused to continue to accept vocational rehabilitation services or failed to cooperate in such a manner as to preclude successful rehabilitation, and the determination of the amount of costs to be reimbursed under this subsection shall be made by the Commissioner of Social Security in accordance with criteria determined by him in the same manner as under section 222(d)(1).

(e) The Commissioner of Social Security[30] may reimburse the State agency described in subsection (d) for the costs described therein incurred in the provision of rehabilitation services-

(1) for any month for which an individual received-

(A) benefits under section 1611 or 1619(a);

(B) assistance under section 1619(b); or

(C) a federally administered State supplementary payment under section 1616 of this Act or section 212(b) of Public Law 93-66;[31] and

(2) for any month before the 13th consecutive month for which an individual, for a reason other than cessation of disability or blindness, was ineligible for-

(A) benefits under section 1611 or 1619(a);

(B) assistance under section 1619(b); or

(C) a federally administered State supplementary payment under section 1616 of this Act or section 212(b) of Public Law 93-66.

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[1] See Vol. II, P.L. 82-414

[2] 113/P.L. 103-66, §13734(a), struck out "the District of Columbia, Puerto Rico, and the territories and possessions of the United States, and who, during the month before the parent reported for such assignment, was receiving benefits under this title" and substituted "and who, for the month before the parent reported for such assignment, received a benefit under this title", effective November 1, 1993.

[3] P.L. 103-432, §221(a)(1), struck out "a child" and substituted "an individual", applicable to determinations made on or after October 31, 1994.

[4] P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

[5] P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

[6] P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

[7] As in original.

[8] P.L. 103-296, §201(b)(4)(A), added this sentence, effective August 15, 1994.

[9] P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

[10] P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

[11] P.L. 103-432, §221(a)(1), struck out "a child" and substituted "an individual", applicable to determinations made on or after October 31, 1994.

[12] P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

[13] P.L. 103-432, §221(a)(2), struck out "child" and substituted "individual", applicable to determinations made on or after October 31, 1994.

[14] P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

[15] P.L. 103-432, §221(a)(2), struck out "child" and substituted "individual", applicable to determinations made on or after October 31, 1994.

[16] P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

[17] P.L. 103-296, §201(b)(4)(A), added this sentence, effective August 15, 1994.

[18] P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

[19] P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

[20] P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

[21] P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

[22] P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

[23] P.L. 103-296, §107(a), provided that "Secretary" should be retained in this paragraph.

[24] P.L. 103-66, §13733(a), inserted paragraph (4), effective on October 1, 1993.

[25] P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

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[26] See Vol. II, P.L. 93-112.

[27] P.L. 97-35, §2193(c)(8)(B); 95 Stat. 828.

[28] P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

[29] P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

[30] P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

[31] See Vol. II, P.L. 93-66.

SEC. 1635. [42 U.S.C. 1383d] OUTREACH PROGRAM FOR CHILDREN.—

(a) ESTABLISHMENT.—The Commissioner of Social Security[1] shall establish and conduct an ongoing program of outreach to children who are potentially eligible for benefits under this title by reason of disability or blindness.

(b) REQUIREMENTS.—Under this program, the Commissioner of Social Security[2] shall—

(1) aim outreach efforts at populations for whom such efforts would be most effective; and

(2) work in cooperation with other Federal, State, and private agencies, and nonprofit organizations, which serve blind or disabled individuals and have knowledge of potential recipients of supplemental security income benefits, and with agencies and organizations (including school systems and public and private social service agencies) which focus on the needs of children.

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[1] P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

[2] P.L. 103-296, §107(a)(4), struck out "Secretary" and substituted "Commissioner of Social Security", effective March 31, 1995.

TITLE XVIII—HEALTH INSURANCE FOR THE AGED AND DISABLED

SEC. 1842. [42 U.S.C. 1395u] (j)(2) Subject to paragraph (3), the sanctions which the Secretary may apply under this paragraph[1] are—

(A) excluding a physician from participation in the programs under this Act for a period not to exceed 5 years, in accordance with the procedures of subsections (c), (f), and (g) of section 1128, or

(B) civil monetary penalties and assessments, in the same manner as such penalties and assessments are authorized under section 1128A(a),[2] or both. The provisions of section 1128A (other than the first 2 sentences of subsection (a) and other than subsection (b)) shall apply to a civil money penalty and assessment under subparagraph (B) in the same manner as such provisions apply to a penalty, assessment, or proceeding under section 1128A(a), except to the extent such provisions are inconsistent with subparagraph (A) or paragraph (3).

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[1] P.L. 99-509, §9320(e)(3), struck out "paragraph (1) or subsection (k)" and substituted "this paragraph". For the effective date, see Vol. II, P.L. 99-509, §9320(i), as amended by P.L. 100-485.

[2] P.L. 101-234, §301(b)(6), struck out "paragraphs" in "Section 1842(j)(2)(B)" and substituted "subsections", effective December 13, 1989. Impossible to execute.

P.L. 101-234, §301(d)(3), made the same amendment. Impossible to execute.

TITLE XIX—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

STATE PLANS FOR MEDICAL ASSISTANCE[1]

SEC. 1902. [42 U.S.C. 1396a] (a) A State plan for medical assistance must—

(1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(2) provide for financial participation by the State equal to not less than 40 per centum of the non-Federal share of the expenditures under the plan with respect to which payments under section 1903 are authorized by this title; and, effective July 1, 1969, provide for financial participation by the State equal to all of such non-Federal share or provide for distribution of funds from Federal or State sources, for carrying out the State plan, on an equalization or other basis which will assure that the lack of adequate funds from local sources will not result in lowering the amount, duration, scope, or quality of care and services available under the plan;

(3) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for medical assistance under the plan is denied or is not acted upon with reasonable promptness;

(4) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods, and including provision for utilization of professional medical personnel in the administration and, where administered locally, supervision of administration of the plan) as are found by the Secretary to be necessary for the proper and efficient operation of the plan,[2] (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency, and (C) that each State or local officer or employee who is responsible for the expenditure of substantial amounts of funds under the State plan, each individual who formerly was such an officer or employee, and each partner of such an officer or employee shall be prohibited from committing any act, in relation to any activity under the plan, the commission

of which, in connection with any activity concerning the United States Government, by an officer or employee of the United States Government, an individual who was such an officer or employee, or a partner of such an officer or employee is prohibited by section 207 or 208 of title 18, United States Code;

(5) either provide for the establishment or designation of a single State agency to administer or to supervise the administration of the plan; or provide for the establishment or designation of a single State agency to administer or to supervise the administration of the plan, except that the determination of eligibility for medical assistance under the plan shall be made by the State or local agency administering the State plan approved under title I or XVI (insofar as it relates to the aged) if the State is eligible to participate in the State plan program established under title XVI, or by the agency or agencies administering the supplemental security income program established under title XVI or the State plan approved under part A of title IV if the State is not eligible to participate in the State plan program established under title XVI;

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provide safeguards which restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan;

(8) provide that all individuals wishing to make application for medical assistance under the plan shall have opportunity to do so, and that such assistance shall be furnished with reasonable promptness to all eligible individuals;

(9) provide—

(A) that the State health agency, or other appropriate State medical agency (whichever is utilized by the Secretary for the purpose specified in the first sentence of section 1864(a)), shall be responsible for establishing and maintaining health standards for private or public institutions in which recipients of medical assistance under the plan may receive care or services,

(B) for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards, other than those relating to health, for such institutions, and

(C) that any laboratory services paid for under such plan must be provided by a laboratory which meets the applicable requirements of section 1861(e)(9) or paragraphs (15) and (16) of section 1861(s), or, in the case of a laboratory which is in a rural health clinic, of section 1861(aa)(2)(G);

(10) provide—

(A) for making medical assistance available, including at least the care and services listed in paragraphs (1) through (5), (17) and (21) of section 1905(a), to—

(i) all individuals—

(I) who are receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A or part E of title IV (including individuals eligible under this title by reason of section 402(a)(37), 406(h), or 473(b), or considered by the State to be receiving such aid as authorized under section 482(e)(6)[3]),

(II) with respect to whom supplemental security income benefits are being paid under title XVI or who are qualified severely impaired individuals (as defined in section 1905(q)),

(III) who are qualified pregnant women or children as defined in section 1905(n),

(IV) who are described in subparagraph (A) or (B) of subsection (l)(1) and whose family income does not exceed the minimum income level the State is required to establish under subsection (l)(2)(A) for such a family;[4]

(V) who are qualified family members as defined in section 1905(m)(1),

(VI) who are described in subparagraph (C) of subsection (l)(1) and whose family income does not exceed the income level the State is required to establish under subsection (l)(2)(B) for such a family, or[5]

(VII) who are described in subparagraph (D) of subsection (l)(1) and whose family income does not exceed the income level the State is required to establish under subsection (l)(2)(C) for such a family;[6]

(ii) at the option of the State, to any group or groups of individuals described in section 1905(a) (or, in the case of individuals described in section 1905(a)(i), to any reasonable categories of such individuals) who are not individuals described in clause (i) of this subparagraph but—

(I) who meet the income and resources requirements of the appropriate State plan described in clause (i) or the supplemental security income program (as the case may be),

(II) who would meet the income and resources requirements of the appropriate State plan described in clause (i) if their work-related child care costs were paid from their earnings rather than by a State agency as a service expenditure,

(III) who would be eligible to receive aid under the appropriate State plan described in clause (i) if coverage under such plan was as broad as allowed under Federal law,

(IV) with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, aid or assistance under the appropriate State plan described in clause (i), supplemental security income benefits under title XVI, or a State supplementary payment;

(V) who are in a medical institution for a period of not less than 30 consecutive days (with eligibility by reason of this subclause beginning on the first day of such period), who meet the resource requirements of the appropriate State plan described in clause (i) or the supplemental security income program, and whose income does not exceed a separate income standard established by the State which is consistent with the limit established under section 1903(f)(4)(C),

(VI) who would be eligible under the State plan under this title if they were in a medical institution, with respect to whom there has been a determination that but for the provision of home or community-based services described in subsection (c), (d), or (e) of section 1915 they would require the level of care provided in a hospital, nursing facility or intermediate care facility for the mentally retarded the cost of which could be reimbursed under the State plan, and who will receive home or community-based services pursuant to a waiver granted by the Secretary under subsection (c), (d), or (e) of section 1915,

(VII) who would be eligible under the State plan under this title if they were in a medical institution, who are terminally ill, and who will receive hospice care pursuant to a voluntary election described in section 1905(o);

(VIII) who is a child described in section 1905(a)(i)—

(aa) for whom there is in effect an adoption assistance agreement (other than an agreement under part E of title IV) between the State and an adoptive parent or parents,

(bb) who the State agency responsible for adoption assistance has determined cannot be placed with adoptive parents without medical assistance because such child has special needs for medical or rehabilitative care, and

(cc) who was eligible for medical assistance under the State plan prior to the adoption assistance agreement being entered into, or who would have been eligible for medical assistance at such time if the eligibility standards and methodologies of the State's foster care program under part E of title IV were applied rather than the eligibility standards and methodologies of the State's aid to families with dependent children program under part A of title IV;[7]

(IX) who are described in subsection (l)(1) and are not described in clause (i)(IV), clause (i)(VI), or clause (i)(VII);

(X) who are described in subsection (m)(1);[8]

(XI) who receive only an optional State supplementary payment based on need and paid on a regular basis, equal to the difference between the individual's countable income and the income standard used to determine eligibility for such supplementary payment (with countable income being the income remaining after deductions as established by the State pursuant to standards that may be more restrictive than the standards for supplementary security income benefits under title XVI), which are available to all individuals in the State (but which may be based on different income standards by political subdivision according to cost of living differences), and which are paid by a State that does not have an agreement with the Commissioner of Social Security[9] under section 1616 or 1634; or[10]

(XII) who are described in subsection (z)(1) (relating to certain TB-infected individuals);[11]

(B) that the medical assistance made available to any individual described in subparagraph (A)—

(i) shall not be less in amount, duration, or scope than the medical assistance made available to any other such individual, and

(ii) shall not be less in amount, duration, or scope than the medical assistance made available to individuals not described in subparagraph (A);

(C) that if medical assistance is included for any group of individuals described in section 1905(a) who are not described in subparagraph (A) or (E), then—

(i) the plan must include a description of (I) the criteria for determining eligibility of individuals in the group for such medical assistance, (II) the amount, duration, and scope of medical assistance made available to individuals in the group, and (III) the single standard to be employed in determining income and resource eligibility for all such groups, and the methodology to be employed in determining such eligibility, which shall be no more restrictive than the methodology which would be employed under the supplemental security income program in the case of groups consisting of aged, blind, or disabled individuals in a State in which such program is in effect, and which shall be no more restrictive than the methodology which would be employed under the appropriate State plan (described in subparagraph (A)(i)) to which such group is most closely categorically related in the case of other groups;

(ii) the plan must make available medical assistance—

(I) to individuals under the age of 18 who (but for income and resources) would be eligible for medical assistance as an individual described in subparagraph (A)(i), and

(II) to pregnant women, during the course of their pregnancy, who (but for income and resources) would be eligible for medical assistance as an individual described in subparagraph (A);

(iii) such medical assistance must include (I) with respect to children under 18 and individuals entitled to institutional services, ambulatory services, and (II) with respect to pregnant women, prenatal care and delivery services; and

(iv) if such medical assistance includes services in institutions for mental diseases or in an intermediate care facility for the mentally retarded (or both) for any such group, it also must include for all groups covered at least the care and services listed in paragraphs (1) through (5) and (17) of section 1905(a) or the care and services listed in any 7 of the paragraphs numbered (1) through (24)[12] of such section;

(D) for the inclusion of home health services for any individual who, under the State plan, is entitled to nursing facility services;

(E)(i) for making medical assistance available for medicare cost-sharing (as defined in section 1905(p)(3)) for qualified medicare beneficiaries described in section

1905(p)(1);

(ii) for making medical assistance available for payment of medicare cost-sharing described in section 1905(p)(3)(A)(i) for qualified disabled and working individuals described in section 1905(s); and

(iii) for making medical assistance available for medicare cost sharing described in section 1905(p)(3)(A)(ii) subject to section 1905(p)(4), for individuals who would be qualified medicare beneficiaries described in section 1905(p)(1) but for the fact that their income exceeds the income level established by the State under section 1905(p)(2) but is less than 110 percent in 1993 and 1994, and 120 percent in 1995 and years thereafter of the official poverty line (referred to in such section) for a family of the size involved; and

(F) at the option of a State, for making medical assistance available for COBRA premiums (as defined in subsection (u)(2)) for qualified COBRA continuation beneficiaries described in section 1902(u)(1); except that (I) the making available of the services described in paragraph (4), (14), or (16) of section 1905(a) to individuals meeting the age requirements prescribed therein shall not, by reason of this paragraph (10), require the making available of any such services, or the making available of such services of the same amount, duration, and scope, to individuals of any other ages, (II) the making available of supplementary medical insurance benefits under part B of title XVIII to individuals eligible therefor (either pursuant to an agreement entered into under section 1843 or by reason of the payment of premiums under such title by the State agency on behalf of such individuals), or provision for meeting part or all of the cost of deductibles, cost sharing, or similar charges under part B of title XVIII for individuals eligible for benefits under such part, shall not, by reason of this paragraph (10), require the making available of any such benefits, or the making available of services of the same amount, duration, and scope, to any other individuals, (III) the making available of medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in clause (A) to any classification of individuals approved by the Secretary with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them, a State supplementary payment shall not, by reason of this paragraph (10), require the making available of any such assistance, or the making available of such assistance of the same amount, duration, and scope, to any other individuals not described in clause (A), (IV) the imposition of a deductible, cost sharing, or similar charge for any item or service furnished to an individual not eligible for the exemption under section 1916(a)(2) or (b)(2) shall not require the imposition of a deductible, cost sharing, or similar charge for the same item or service furnished to an individual who is eligible for such exemption, (V) the making available to pregnant women covered under the plan of services relating to pregnancy (including prenatal, delivery, and postpartum services) or to any other condition which may complicate pregnancy shall not, by reason of this paragraph (10), require the making available of such services, or the making available of such services of the same amount, duration, and scope, to any other individuals, provided such services are made available (in the same amount, duration, and scope) to all pregnant women covered under the State plan, (VI) with respect to the making available of medical assistance for hospice care to terminally ill individuals who have made a voluntary election described in section 1905(o) to receive hospice care instead of medical assistance for certain other services, such assistance may not be made available in an amount, duration, or scope less than that provided under title XVIII, and the making available of such assistance shall not, by reason of this paragraph (10), require the making available of medical assistance for hospice care to other individuals or the making available of medical assistance for services waived by such terminally ill individuals, (VII) the medical assistance made available to an individual described in subsection (l)(1)(A) who is eligible for medical assistance only because of subparagraph (A)(i)(IV) or (A)(ii)(IX) shall be limited to medical assistance for services related to pregnancy (including prenatal, delivery, postpartum, and family planning services) and to other conditions which may complicate pregnancy, (VIII) the medical assistance made available to a qualified medicare beneficiary described in section 1905(p)(1) who is only entitled to medical assistance because the individual is such a beneficiary shall be limited to medical assistance for medicare cost-sharing (described in section 1905(p)(3)), subject to the provisions of subsection (n) and section 1916(b), (IX) the making available of respiratory care services in accordance with subsection (e)(9) shall not, by reason of this paragraph (10), require the making available of such services, or the making available of such services of the same amount, duration, and scope, to any individuals not included under subsection (e)(9)(A), provided such services are made available (in the same amount, duration, and scope) to all individuals described in such subsection, (X) if the plan provides for any fixed durational limit on medical assistance for inpatient hospital services (whether or not such a limit varies by medical condition or diagnosis), the plan must establish exceptions to such a limit for medically necessary inpatient hospital services furnished with respect to individuals under one year of age in a hospital defined under the State plan, pursuant to section 1923(a)(1)(A), as a disproportionate share hospital and subparagraph (B) (relating to comparability) shall not be construed as requiring such an exception for other individuals, services, or hospitals, (XI)[13] the making available of medical assistance to cover the costs of premiums, deductibles, coinsurance, and other cost-sharing obligations for certain individuals for private health coverage as described in section 1906 shall not, by reason of paragraph (10), require the making available of any such benefits or the making available of services of the same amount, duration, and scope of such private coverage to any other individuals, (XII)[14] the medical assistance made available to an individual described in subsection (u)(1) who is eligible for medical assistance only because of subparagraph (F) shall be limited to medical assistance for COBRA continuation premiums (as defined in subsection (u)(2)), and (XIII) the medical assistance made available to an individual described in subsection (z)(1) who is eligible for medical assistance only because of subparagraph (A)(ii)(XII) shall be limited to medical assistance for TB-related services (described in subsection (z)(2)[15];

(11)(A) provide for entering into cooperative arrangements with the State agencies responsible for administering or supervising the administration of health services and vocational rehabilitation services in the State looking toward maximum utilization of such services in the provision of medical assistance under the plan, (B)[16] provide, to the extent prescribed by the Secretary, for entering into agreements, with any agency, institution, or organization receiving payments under (or through an allotment under) title V, (i) providing for utilizing such agency, institution, or organization in furnishing care and services which are available under such title or allotment and which are included in the State plan approved under this section[17] (ii) making such provision as may be appropriate for reimbursing such agency, institution, or organization for the cost of any such care and services furnished any individual for which payment would otherwise be made to the State with respect to the individual under section 1903, and (iii) providing for coordination of information and education on pediatric vaccinations and delivery of immunization services[18], and (C) provide for coordination of the operations under this title, including the provision of information and education on pediatric vaccinations and the delivery of immunization services,[19] with the State's operations under the special supplemental food program for women, infants, and children under section 17 of the Child Nutrition Act of 1966[20];

(12) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

(13) provide—

(A) for payment (except where the State agency is subject to an order under section 1914) of the hospital services, nursing facility services, and services in an intermediate care facility for the mentally retarded provided under the plan through the use of rates (determined in accordance with methods and standards developed by the State which, in the case of nursing facilities, take into account the costs (including the costs of services required to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident eligible for benefits under this title) of complying with subsections (b) (other than paragraph (3)(F) thereof), (c), and (d) of section 1919 and provide (in the case of a nursing facility with a waiver under section 1919(b)(4)(C)(ii)) for an appropriate reduction to take into account the lower costs (if any) of the facility for nursing care, and which, in the case of hospitals, take into account the situation of hospitals which serve a disproportionate number of low income patients with special needs and provide, in the case of hospital patients receiving services at an inappropriate level of care (under conditions similar to those described in section 1861(v)(1)(G)), for lower reimbursement rates reflecting the level of care actually received (in a manner consistent with section 1861(v)(1)(G))) which the State finds, and makes assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations, and quality and safety standards and to assure that individuals eligible for medical assistance have reasonable access (taking into account geographic location and reasonable travel time) to inpatient hospital services of adequate quality; and such State makes further assurances, satisfactory to the Secretary, for the filing of uniform cost reports by each hospital, nursing facility, and intermediate care facility for the mentally retarded and periodic audits by the State of such reports;[21]

(B) that the State shall provide assurances satisfactory to the Secretary that the payment methodology utilized by the State for payments to hospitals can reasonably be expected not to increase such payments, solely as a result of a change of ownership, in excess of the increase which would result from the application of section 1861(v)(1)(O);

(C) that the State shall provide assurances satisfactory to the Secretary that the valuation of capital assets, for purposes of determining payment rates for nursing facilities and for intermediate care facilities for the mentally retarded, will not be increased (as measured from the date of acquisition by the seller to the date of the change of ownership), solely as a result of a change of ownership, by more than the lesser of—

(i) one-half of the percentage increase (as measured over the same period of time, or, if necessary, as extrapolated retrospectively by the Secretary) in the Dodge Construction Systems Costs for Nursing Homes, applied in the aggregate with respect to those facilities which have undergone a change of ownership during the fiscal year, or

(ii) one-half of the percentage increase (as measured over the same period of time) in the Consumer Price Index for All Urban Consumers (United States city average);

(D) for payment for hospice care in amounts no lower than the amounts, using the same methodology, used under part A of title XVIII and for payment of amounts under section 1905(o)(3); except that in the case of hospice care which is furnished to an individual who is a resident of a nursing facility or intermediate care facility for the mentally retarded[22], and who would be eligible under the plan for nursing facility services or services in an intermediate care facility for the mentally retarded[23] if he had not elected to receive hospice care, there shall be paid an additional amount, to take into account the room and board furnished by the facility, equal to at least 95 percent of the rate that would have been paid by the State under the plan for facility services in that facility for that individual;

(E) for payment for services described in clause (B) or (C) of section 1905(a)(2)[24] under the plan,[25] of 100 percent of costs which are reasonable and related to the cost of furnishing such services or based on such other tests of reasonableness, as the Secretary prescribes in regulations under section 1833(a)(3), or, in the case of services to which those regulations do not apply, on the same methodology used under section 1833(a)(3); and

(F) for payment for home and community care (as defined in section 1929(a) and provided under such section) through rates which are reasonable and adequate to meet the costs of providing care, efficiently and economically, in conformity with applicable State and Federal laws, regulations, and quality and safety standards;[26]

(14) provide that enrollment fees, premiums, or similar charges, and deductions, cost sharing, or similar charges, may be imposed only as provided in section 1916;

[(15) Stricken.[27]]

(16) provide for inclusion, to the extent required by regulations prescribed by the Secretary, of provisions (conforming to such regulations) with respect to the furnishing of medical assistance under the plan to individuals who are residents of the State but are absent therefrom;

(17) except as provided in subsections (l)(3), (m)(3), and (m)(4), include reasonable standards (which shall be comparable for all groups and may, in accordance with standards prescribed by the Secretary, differ with respect to income levels, but only in the case of applicants or recipients of assistance under the plan who are not receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, and with respect to whom supplemental security income benefits are not being paid under title XVI, based on the variations between shelter costs in urban areas and in rural areas) for determining eligibility for and the extent of medical assistance under the plan which (A) are consistent with the objectives of this title, (B) provide for taking into account only such income and resources as are, as determined in accordance with standards prescribed by the Secretary, available to the applicant or recipient and (in the case of any applicant or recipient who would, except for income and resources, be eligible for aid or assistance in the form of money payments under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or to have paid with respect to him supplemental security income benefits under title XVI) as would not be disregarded (or set aside for future needs) in determining his eligibility for such aid, assistance, or benefits, (C) provide for reasonable evaluation of any such income or resources, and (D) do not take into account the financial responsibility of any individual for any applicant or recipient of assistance under the plan unless such applicant or recipient is such individual's spouse or such individual's child who is under age 21 or (with respect to States eligible to participate in the State program established under title XVI), is blind or permanently and totally disabled, or is blind or disabled as defined in section 1614 (with respect to States which are not eligible to participate in such program); and provide for flexibility in the application of such

standards with respect to income by taking into account, except to the extent prescribed by the Secretary, the costs (whether in the form of insurance premiums, payments made to the State under section 1903(f)(2)(B), or otherwise and regardless of whether such costs are reimbursed under another public program of the State or political subdivision thereof) incurred for medical care or for any other type of remedial care recognized under State law;[28]

(18) comply with the provisions of section 1917 with respect to liens, adjustments and recoveries of medical assistance correctly paid, transfers of assets, and treatment of certain trusts[29];

(19) provide such safeguards as may be necessary to assure that eligibility for care and services under the plan will be determined, and such care and services will be provided, in a manner consistent with simplicity of administration and the best interests of the recipients;

(20) if the State plan includes medical assistance in behalf of individuals 65 years of age or older who are patients in institutions for mental diseases—

(A) provide for having in effect such agreements or other arrangements with State authorities concerned with mental diseases, and, where appropriate, with such institutions, as may be necessary for carrying out the State plan, including arrangements for joint planning and for development of alternate methods of care, arrangements providing assurance of immediate readmittance to institutions where needed for individuals under alternate plans of care, and arrangements providing for access to patients and facilities, for furnishing information, and for making reports;

(B) provide for an individual plan for each such patient to assure that the institutional care provided to him is in his best interests, including, to that end, assurances that there will be initial and periodic review of his medical and other needs, that he will be given appropriate medical treatment within the institution, and that there will be a periodic determination of his need for continued treatment in the institution; and

(C) provide for the development of alternate plans of care, making maximum utilization of available resources, for recipients 65 years of age or older who would otherwise need care in such institutions, including appropriate medical treatment and other aid or assistance; for services referred to in section 3(a)(4)(A)(i) and (ii) or section 1603(a)(4)(A)(i) and (ii) which are appropriate for such recipients and for such patients; and for methods of administration necessary to assure that the responsibilities of the State agency under the State plan with respect to such recipients and such patients will be effectively carried out;

(21) if the State plan includes medical assistance in behalf of individuals 65 years of age or older who are patients in public institutions for mental diseases, show that the State is making satisfactory progress toward developing and implementing a comprehensive mental health program, including provision for utilization of community mental health centers, nursing facilities, and other alternatives to care in public institutions for mental diseases;

(22) include descriptions of (A) the kinds and numbers of professional medical personnel and supporting staff that will be used in the administration of the plan and of the responsibilities they will have, (B) the standards, for private or public institutions in which recipients of medical assistance under the plan may receive care or services, that will be utilized by the State authority or authorities responsible for establishing and maintaining such standards, (C) the cooperative arrangements with State health agencies and State vocational rehabilitation agencies entered into with a view to maximum utilization of and coordination of the provision of medical assistance with the services administered or supervised by such agencies, and (D) other standards and methods that the State will use to assure that medical or remedial care and services provided to recipients of medical assistance are of high quality;

(23) except as provided in subsection (g) and in section 1915 and except in the case of Puerto Rico, the Virgin Islands, and Guam, provide that (A) any individual eligible for medical assistance (including drugs) may obtain such assistance from any institution, agency, community pharmacy, or person, qualified to perform the service or services required (including an organization which provides such services, or arranges for their availability, on a prepayment basis), who undertakes to provide him such services, and (B) an enrollment of an individual eligible for medical assistance in a primary care case-management system (described in section 1915(b)(1)), a health maintenance organization, or a similar entity shall not restrict the choice of the qualified person from whom the individual may receive services under section 1905(a)(4)(C);

(24) effective July 1, 1969, provide for consultative services by health agencies and other appropriate agencies of the State to hospitals, nursing facilities, home health agencies, clinics, laboratories, and such other institutions as the Secretary may specify in order to assist them (A) to qualify for payments under this Act, (B) to establish and maintain such fiscal records as may be necessary for the proper and efficient administration of this Act, and (C) to provide information needed to determine payments due under this Act on account

of care and services furnished to individuals;

(25) provide—

(A) that the State or local agency administering such plan will take all reasonable measures to ascertain the legal liability of third parties (including health insurers, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), service benefit plans, and health maintenance organizations)[30] to pay for care and services available under the plan, including—

(i) the collection of sufficient information (including the use of information collected by the Medicare and Medicaid Coverage Data Bank under section 1144 and any additional measures as specified[31] by the Secretary in regulations) to enable the State to pursue claims against such third parties, with such information being collected at the time of any determination or redetermination of eligibility for medical assistance, and

(ii) the submission to the Secretary of a plan (subject to approval by the Secretary) for pursuing claims against such third parties, which plan shall—

(I) be integrated with, and be monitored as a part of the Secretary's review of, the State's mechanized claims processing and information retrieval system under section 1903(r), and

(II) be subject to the provisions of section 1903(r)(4) relating to reductions in Federal payments for failure to meet conditions of approval, but shall not be subject to any other financial penalty as a result of any other monitoring, quality control, or auditing requirements;

(B) that in any case where such a legal liability is found to exist after medical assistance has been made available on behalf of the individual and where the amount of reimbursement the State can reasonably expect to recover exceeds the costs of such recovery, the State or local agency will seek reimbursement for such assistance to the extent of such legal liability;

(C) that in the case of an individual who is entitled to medical assistance under the State plan with respect to a service for which a third party is liable for payment, the person furnishing the service may not seek to collect from the individual (or any financially responsible relative or representative of that individual) payment of an amount for that service (i) if the total of the amount of the liabilities of third parties for that service is at least equal to the amount payable for that service under the plan (disregarding section 1916), or (ii) in an amount which exceeds the lesser of (I) the amount which may be collected under section 1916, or (II) the amount by which the amount payable for that service under the plan (disregarding section 1916) exceeds the total of the amount of the liabilities of third parties for that service;

(D) that a person who furnishes services and is participating under the plan may not refuse to furnish services to an individual (who is entitled to have payment made under the plan for the services the person furnishes) because of a third party's potential liability for payment for the service;

(E) that in the case of prenatal or preventive pediatric care (including early and periodic screening and diagnosis services under section 1905(a)(4)(B)) covered under the State plan, the State shall—

(i) make payment for such service in accordance with the usual payment schedule under such plan for such services without regard to the liability of a third party for payment for such services; and

(ii) seek reimbursement from such third party in accordance with subparagraph (B);

(F) that in the case of any services covered under such plan which are provided to an individual on whose behalf child support enforcement is being carried out by the State agency under part D of title IV of this Act, the State shall—

(i) make payment for such service in accordance with the usual payment schedule under such plan for such services without regard to any third-party liability for payment for such services, if such third-party liability is derived (through insurance or otherwise) from the parent whose obligation to pay support is being enforced by such agency, if payment has not been made by such third party within 30 days after such services are furnished;

(ii) seek reimbursement from such third party in accordance with subparagraph (B);[32]

(G) that the State plan shall meet the requirements of section 1906 (relating to enrollment of individuals under group health plans in certain cases);[33]

(H) that the State prohibits any health insurer (including a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a service benefit plan, and a health maintenance organization), in enrolling an individual or in making any payments for benefits to the individual or on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance under a plan under this title for such State, or any other State; and[34]

(I) that to the extent that payment has been made under the State plan for medical assistance in any case where a third party has a legal liability to make payment for such assistance, the State has in effect laws under which, to the extent that payment has been made under the State plan for medical assistance for health care items or services furnished to an individual, the State is considered to have acquired the rights of such individual to payment by any other party for such health care items or services;[35]

(26) if the State plan includes medical assistance for inpatient mental hospital services, provide—

(A) with respect to each patient receiving such services, for a regular program of medical review (including medical evaluation) of his need for such services, and for a written plan of care;

(B) for periodic inspections to be made in all mental institutions within the State by one or more medical review teams (composed of physicians and other appropriate health and social service personnel) of the care being provided to each person receiving medical assistance, including (i) the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, (ii) the necessity and desirability of his continued placement in the institution, and (iii) the feasibility of meeting his health care needs through alternative institutional or noninstitutional services; and

(C) for full reports to the State agency by each medical review team of the findings of each inspection under subparagraph (B), together with any recommendations;

(27) provide for agreements with every person or institution providing services under the State plan under which such person or institution agrees (A) to keep such records as are necessary fully to disclose the extent of the services provided to individuals receiving assistance under the State plan, and (B) to furnish the State agency or the Secretary with such information, regarding any payments claimed by such person or institution for providing services under the State plan, as the State agency or the Secretary may from time to time request;

(28) provide—

(A) that any nursing facility receiving payments under such plan must satisfy all the requirements of subsections (b) through (d) of section 1919 as they apply to such facilities;

(B) for including in "nursing facility services" at least the items and services specified (or deemed to be specified) by the Secretary under section 1919(f)(7) and making available upon request a description of the items and services so included;

(C) for procedures to make available to the public the data and methodology used in establishing payment rates for nursing facilities under this title; and

(D) for compliance (by the date specified in the respective sections) with the requirements of—

(i) section 1919(e);

(ii) section 1919(g) (relating to responsibility for survey and certification of nursing facilities); and

(iii) sections 1919(h)(2)(B) and 1919(h)(2)(D) (relating to establishment and application of remedies);

(29) include a State program which meets the requirements set forth in section 1908, for the licensing of administrators of nursing homes;[36]

(30)(A) provide such methods and procedures relating to the utilization of, and the payment for, care and services available under the plan (including but not limited to utilization review plans as provided for in section 1903(i)(4)) as may be necessary to safeguard against unnecessary utilization of such care and services and to assure that payments are consistent with efficiency, economy, and quality of care and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area;

(B) provide, under the program described in subparagraph (A), that—

(i) each admission to a hospital, intermediate care facility for the mentally retarded, or hospital for mental diseases is reviewed or screened in accordance with criteria established by medical and other professional personnel who are not themselves directly responsible for the care of the patient involved, and who do not have a significant financial interest in any such institution and are not, except in the case of a hospital, employed by the institution providing the care involved, and

(ii) the information developed from such review or screening, along with the data obtained from prior reviews of the necessity for admission and continued stay of patients by such professional personnel, shall be used as the basis for establishing the size and composition of the sample of admissions to be subject to review and evaluation by such personnel, and any such sample may be of any size up to 100 percent of all admissions and must be of sufficient size to serve the purpose of (I) identifying the patterns of care being provided and the changes occurring over time in such patterns so that the need for modification may be ascertained, and (II) subjecting admissions to early or more extensive review where information indicates that such consideration is warranted to a hospital, intermediate care facility for the mentally retarded, or hospital for mental diseases; and

(C) use a utilization and quality control peer review organization (under part B of title XI), an entity which meets the requirements of section 1152, as determined by the Secretary, or a private accreditation body to conduct (on an annual basis) an independent, external review of the quality of services furnished under each contract under section 1903(m), with the results of such review made available to the State and, upon request, to the Secretary, the Inspector General in the Department of Health and Human Services, and the Comptroller General;

(31) with respect to services in an intermediate care facility for the mentally retarded (where[37] the State plan includes medical assistance for such services) provide—

(A) with respect to each patient receiving such services, for a written plan of care, prior to admission to or authorization of benefits in such facility, in accordance with regulations of the Secretary, and for a regular program of independent professional review (including medical evaluation) which shall periodically review his need for such services;

(B) with respect to each intermediate care facility for the mentally retarded[38] within the State, for periodic onsite inspections of the care being provided to each person receiving medical assistance, by one or more independent professional review teams (composed of a physician or registered nurse and other appropriate health and social service personnel), including with respect to each such person (i) the adequacy of the services available to meet his current health needs and promote his maximum physical well-being, (ii) the necessity and desirability of his continued placement in the facility, and (iii) the feasibility of meeting his health care needs through alternative institutional or noninstitutional services; and[39]

(C) for full reports to the State agency by each independent professional review team of the findings of each inspection under subparagraph (B), together with any recommendations;

(32) provide that no payment under the plan for any care or service provided to an individual shall be made to anyone other than such individual or the person or institution providing such care or service, under an assignment or power of attorney or otherwise; except that—

(A) in the case of any care or service provided by a physician, dentist, or other individual practitioner, such payment may be made (i) to the employer of such physician, dentist, or other practitioner if such physician, dentist, or practitioner is required as a condition of his employment to turn over his fee for such care or service to his employer, or (ii) (where the care or service was provided in a hospital, clinic, or other facility) to the facility in which the care or service was provided if there is a contractual arrangement between such physician, dentist, or practitioner and such facility under which such facility submits the bill for such care or service;

(B) nothing in this paragraph shall be construed (i) to prevent the making of such a payment in accordance with an assignment from the person or institution providing the care or service involved if such assignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (ii) to preclude an agent of such person or institution from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such person or institution under the plan is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment;[40]

(C) in the case of services furnished (during a period that does not exceed 14 continuous days in the case of an informal reciprocal arrangement or 90 continuous days (or such longer period as the Secretary may provide) in the case of an arrangement involving per diem or other fee-for-time compensation) by, or incident to the services of, one physician to the patients of another physician who submits the claim for such services, payment shall be made to the physician submitting the claim (as if the services were furnished by, or incident to, the physician's services), but only if the claim identifies (in a manner specified by the Secretary) the physician who furnished the services; and[41]

(D) in the case of payment for a childhood vaccine administered before October 1, 1994, to individuals entitled to medical assistance under the State plan, the State plan may make payment directly to the manufacturer of the vaccine under a voluntary replacement program agreed to by the State pursuant to which the manufacturer (i) supplies doses of the vaccine to providers administering the vaccine, (ii) periodically replaces the supply of the vaccine, and (iii) charges the State the manufacturer's price to the Centers for Disease Control and Prevention for the vaccine so administered (which price includes a reasonable amount to cover shipping and the handling of returns);[42]

(33) provide—

(A) that the State health agency, or other appropriate State medical agency, shall be responsible for establishing a plan, consistent with regulations prescribed by the Secretary, for the review by appropriate professional health personnel of the appropriateness and quality of care and services furnished to recipients of medical assistance under the plan in order to provide guidance with respect thereto in the administration of the plan to the State agency established or designated pursuant to paragraph (5) and, where applicable, to the State agency described in the second sentence of this subsection; and

(B) that, except as provided in section 1919(g),[43] the State or local agency utilized by the Secretary for the purpose specified in the first sentence of section 1864(a), or, if such agency is not the State agency which is responsible for licensing health institutions, the State agency responsible for such licensing, will perform for the State agency administering or supervising the administration of the plan approved under this title the function of determining whether institutions and agencies meet the requirements for participation in the program under such plan, except that, if the Secretary has cause to question the adequacy of such determinations, the Secretary is authorized to validate State determinations and, on that basis, make independent and binding determinations concerning the extent to which individual institutions and agencies meet the requirements for participation;

(34) provide that in the case of any individual who has been determined to be eligible for medical assistance under the plan, such assistance will be made available to him for care and services included under the plan and furnished in or after the third month before the month in which he made application (or application was made on his behalf in the case of a deceased individual) for such assistance if such individual was (or upon application would have been) eligible for such assistance at the time such care and services were furnished;

(35) provide that any disclosing entity (as defined in section 1124(a)(2)) receiving payments under such plan complies with the requirements of section 1124;

(36) provide that within 90 days following the completion of each survey of any health care facility, laboratory, agency, clinic, or organization, by the appropriate State agency described in paragraph (9), such agency shall (in accordance with regulations of the Secretary) make public in readily available form and place the pertinent findings of each such survey relating to the compliance of each such health care facility, laboratory, clinic, agency, or organization with (A) the

statutory conditions of participation imposed under this title, and (B) the major additional conditions which the Secretary finds necessary in the interest of health and safety of individuals who are furnished care or services by any such facility, laboratory, clinic, agency, or organization;

(37) provide for claims payment procedures which (A) ensure that 90 per centum of claims for payment (for which no further written information or substantiation is required in order to make payment) made for services covered under the plan and furnished by health care practitioners through individual or group practices or through shared health facilities are paid within 30 days of the date of receipt of such claims and that 99 per centum of such claims are paid within 90 days of the date of receipt of such claims, and (B) provide for procedures of prepayment and postpayment claims review, including review of appropriate data with respect to the recipient and provider of a service and the nature of the service for which payment is claimed, to ensure the proper and efficient payment of claims and management of the program;

(38) require that an entity (other than an individual practitioner or a group of practitioners) that furnishes, or arranges for the furnishing of, items or services under the plan, shall supply (within such period as may be specified in regulations by the Secretary or by the single State agency which administers or supervises the administration of the plan) upon request specifically addressed to such entity by the Secretary or such State agency, the information described in section 1128(b)(9);[44]

(39) provide that the State agency shall exclude any specified individual or entity from participation in the program under the State plan for the period specified by the Secretary, when required by him to do so pursuant to section 1128 or section 1128A, and provide that no payment may be made under the plan with respect to any item or service furnished by such individual or entity during such period;

(40) require each health services facility or organization which receives payments under the plan and of a type for which a uniform reporting system has been established under section 1121(a) to make reports to the Secretary of information described in such section in accordance with the uniform reporting system (established under such section) for that type of facility or organization;

(41) provide that whenever a provider of services or any other person is terminated, suspended, or otherwise sanctioned or prohibited from participating under the State plan, the State agency shall promptly notify the Secretary and, in the case of a physician and notwithstanding paragraph (7), the State medical licensing board of such action;

(42) provide that the records of any entity participating in

the plan and providing services reimbursable on a cost-related basis will be audited as the Secretary determines to be necessary to insure that proper payments are made under the plan:

(43) provide for—

(A) informing all persons in the State who are under the age of 21 and who have been determined to be eligible for medical assistance including services described in section 1905(a)(4)(B), of the availability of early and periodic screening, diagnostic, and treatment services as described in section 1905(r) and the need for age-appropriate immunizations against vaccine-preventable diseases[45],

(B) providing or arranging for the provision of such screening services in all cases where they are requested,

(C) arranging for (directly or through referral to appropriate agencies, organizations, or individuals) corrective treatment the need for which is disclosed by such child health screening services, and

(D) reporting to the Secretary (in a uniform form and manner established by the Secretary, by age group and by basis of eligibility for medical assistance, and by not later than April 1 after the end of each fiscal year, beginning with fiscal year 1990) the following information relating to early and periodic screening, diagnostic, and treatment services provided under the plan during each fiscal year:

(i) the number of children provided child health screening services,

(ii) the number of children referred for corrective treatment (the need for which is disclosed by such child health screening services),

(iii) the number of children receiving dental services, and

(iv) the State's results in attaining the participation goals set for the State under section 1905(r);

(44) in each case for which payment for inpatient hospital services, services in an intermediate care facility for the mentally retarded, or inpatient mental hospital services is made under the State plan—

(A) a physician (or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician) certifies at the time of admission, or, if later, the time the individual applies for medical assistance under the State plan (and a physician, a physician assistant under the supervision of a physician, or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician, recertifies, where such services are furnished over a period of time, in such cases, at least as often as required under section 1903(g)(6) (or, in the case of services that are services provided in an intermediate care facility[46] for the mentally retarded, every year), and accompanied by such supporting material, appropriate to the case involved, as may be provided in regulations of the Secretary), that such services are or were required to be given on an inpatient basis because the individual needs or needed such services, and

(B) such services were furnished under a plan established and periodically reviewed and evaluated by a physician, or, in the case of skilled nursing facility services or intermediate care facility services, a physician, or a nurse practitioner or clinical nurse specialist who is not an employee of the facility but is working in collaboration with a physician;

(45) provide for mandatory assignment of rights of payment for medical support and other medical care owed to recipients, in accordance with section 1912;

(46) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1137 of this Act;

(47) at the option of the State, provide for making ambulatory prenatal care available to pregnant women during a presumptive eligibility period in accordance with section 1920;

(48) provide a method of making cards evidencing eligibility for medical assistance available to an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address;

(49) provide that the State will provide information and access to certain information respecting sanctions taken against health care practitioners and providers by State licensing authorities in accordance with section 1921;

(50) provide, in accordance with subsection (q), for a monthly personal needs allowance for certain institutionalized individuals and couples;

(51)[47] meet the requirements of section 1924 (relating to protection of community spouses)[48];

(52) meet the requirements of section 1925 (relating to extension of eligibility for medical assistance);

(53) provide—

(A) for notifying in a timely manner all individuals in the State who are determined to be eligible for medical assistance and who are pregnant women, breastfeeding or postpartum women (as defined in section 17 of the Child Nutrition Act of 1966), or children below the age of 5, of the availability of benefits furnished by the special supplemental food program under such section, and

(B) for referring any such individual to the State agency responsible for administering such program;

(54) in the case of a State plan that provides medical assistance for covered outpatient drugs (as defined in section 1927(k)), comply with the applicable requirements of section 1927;[49]

(55) provide for receipt and initial processing of applications of individuals for medical assistance under subsection (a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), (a)(10)(A)(i)(VII), or (a)(10)(A)(ii)(IX)—

(A) at locations which are other than those used for the receipt and processing of applications for aid under part A of title IV and which include facilities defined as disproportionate share hospitals under section 1923(a)(1)(A) and Federally-qualified health centers described in section 1905(1)(2)(B)[50], and

(B) using applications which are other than those used for applications for aid under such part;[51]

(56) provide, in accordance with subsection (s), for adjusted payments for certain inpatient hospital services;[52]

(57) provide that each hospital, nursing facility, provider of home health care or personal care services, hospice program, or health maintenance organization (as defined in section 1903(m)(1)(A)) receiving funds under the plan shall comply with the requirements of subsection (w);[53]

(58) provide that the State, acting through a State agency, association, or other private nonprofit entity, develop a written description of the law of the State (whether statutory or as recognized by the courts of the State) concerning advance directives that would be distributed by providers or organizations under the requirements of subsection (w);[54]

(59)[55] maintain a list (updated not less often than monthly, and containing each physician's unique identifier provided under the system established under subsection (v)) of all physicians who are certified to participate under the State plan;[56]

(60) provide that the State agency shall provide assurances satisfactory to the Secretary that the State has in effect the laws relating to medical child support required under section 1908;[57]

(61) provide that the State must demonstrate that it operates a medicaid fraud and abuse control unit described in section 1903(q) that effectively carries out the functions and requirements described in such section, as determined in accordance with standards established by the Secretary,

unless the State demonstrates to the satisfaction of the Secretary that the effective operation of such a unit in the State would not be cost-effective because minimal fraud exists in connection with the provision of covered services to eligible individuals under the State plan, and that beneficiaries under the plan will be protected from abuse and neglect in connection with the provision of medical assistance under the plan without the existence of such a unit; and[58]

(62) provide for a program for the distribution of pediatric vaccines to program-registered providers for the immunization of vaccine-eligible children in accordance with section 1928.[59]

Notwithstanding paragraph (5), if on January 1, 1965, and on the date on which a State submits its plan for approval under this title, the State agency which administered or supervised the administration of the plan of such State approved under title X (or title XVI, insofar as it relates to the blind) was different from the State agency which administered or supervised the administration of the State plan approved under title I (or title XVI, insofar as it relates to the aged), the State agency which administered or supervised the administration of such plan approved under title X (or title XVI, insofar as it relates to the blind) may be designated to administer or supervise the administration of the portion of the State plan for medical assistance which relates to blind individuals and a different State agency may be established or designated to administer or supervise the administration of the rest of the State plan for medical assistance; and in such case the part of the plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this title (except for purposes of paragraph (10)). The provisions of paragraphs (9)(A), (31), and (33) and of section 1903(i)(4) shall not apply to a Christian Science sanatorium operated, or listed and certified, by the First Church of Christ, Scientist, Boston, Massachusetts.

For purposes of paragraph (10) any individual who, for the month of August 1972, was eligible for or receiving aid or assistance under a State plan approved under title I, X, XIV, or XVI, or part A of title IV and who for such month was entitled to monthly insurance benefits under title II shall for purposes of this title only be deemed to be eligible for financial aid or assistance for any month thereafter if such individual would have been eligible for financial aid or assistance for such month had the increase in monthly insurance benefits under title II resulting from enactment of Public Law 92-336 not been applicable to such individual.

The requirement of clause[60] (A) of paragraph (37) with respect to a State plan may be waived by the Secretary if he finds that the State has exercised good faith in trying to meet such requirement. For purposes of this title, any child who meets the requirements of paragraph (1) or (2) of section 473(b) shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of title IV in the State where such child resides. Notwithstanding paragraph (10)(B) or any other provision of this subsection, a State plan shall provide medical assistance with respect to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law only in accordance with section 1903(v).[61]

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for medical assistance under the plan—

(1) an age requirement of more than 65 years; or

(2) any residence requirement which excludes any individual who resides in the State, regardless of whether or not the residence is maintained permanently or at a fixed address; or

(3) any citizenship requirement which excludes any citizen o. the United States.

(c) Notwithstanding subsection (b), the Secretary shall not approve any State plan for medical assistance if—

(1) the State has in effect, under its plan established under part A of title IV, payment levels that are less than the payment levels in effect under such plan on May 1, 1988; or

(2) the State requires individuals described in subsection (l)(1) to apply for benefits under such part as a condition of applying for, or receiving, medical assistance under this title.

(d) If a State contracts with an entity which meets the requirements of section 1152, as determined by the Secretary, for the performance of the quality review functions described in subsection (a)(30)(C), or a utilization and quality control peer review organization having a contract with the Secretary under part B of title XI for the performance of medical or utilization review functions (including quality review functions described in subsection (a)(30)(C)) required under this title of a State plan with respect to specific services or providers (or services or providers in a geographic area of the State), such requirements shall be deemed to be met for those services or providers (or services or providers in that area) by delegation to such an entity or organization under the contract of the State's authority to conduct such review activities if the contract provides for the performance of activities not inconsistent with part B of title XI and provides for such assurances of satisfactory performance by such an entity or organization as the Secretary may prescribe.

(e)(1)(A) Notwithstanding any other provision of this title, effective January 1, 1974, subject to subparagraph (B) each State plan approved under this title must provide that each family which was receiving aid pursuant to a plan of the State approved under part A of title IV in at least 3 of the 6 months immediately preceding the month in which such family became ineligible for such aid because of increased hours of, or increased income from, employment, shall, while a member of such family is employed, remain eligible for assistance under the plan approved under this title (as though the family was receiving aid under the plan approved under part A of title IV) for 4 calendar months beginning with the month in which such family became ineligible for aid under the plan approved under part A of title IV because of income and resources or hours of work limitations contained in such plan.

(B) Subparagraph (A) shall not apply with respect to families that cease to be eligible for aid under part A of title IV during the period beginning on April 1, 1990, and ending on September 30, 1998. During such period, for provisions relating to extension of eligibility for medical assistance for certain families who have received aid pursuant to a State plan approved under part A of title IV and have earned income, see section 1925.

(2)(A) In the case of an individual who is enrolled with a qualified health maintenance organization (as defined in title XIII of the Public Health Service Act[62]) or with an entity described in paragraph (2)(B)(iii), (2)(E), (2)(G), or (6) of section 1903(m) under a contract described in section 1903(m)(2)(A) or with an eligible organization with a contract under section 1876 and who would (but for this paragraph) lose eligibility for benefits under this title before the end of the minimum enrollment period (defined in subparagraph (B)), the State plan may provide, notwithstanding any other provision of this title, that the individual shall be deemed to continue to be eligible for such benefits until the end of such minimum period, but, except for benefits furnished under section 1905(a)(4)(C), only with respect to such benefits provided to the individual as an enrollee of such organization or entity.[63]

(B) For purposes of subparagraph (A), the term "minimum enrollment period" means, with respect to an individual's enrollment with an organization or entity under a State plan, a period, established by the State, of not more than six months beginning on the date the individual's enrollment with the organization or entity becomes effective.

(3) At the option of the State, any individual who—

(A) is 18 years of age or younger and qualifies as a disabled individual under section 1614(a);

(B) with respect to whom there has been a determination by the State that—

(i) the individual requires a level of care provided in a hospital, nursing facility, or intermediate care facility for the mentally retarded,

(ii) it is appropriate to provide such care for the individual outside such an institution, and

(iii) the estimated amount which would be expended for medical assistance for the individual for such care outside an institution is not greater than the estimated amount which would otherwise be expended for medical assistance for the individual within an appropriate institution; and

(C) if the individual were in a medical institution, would be eligible for medical assistance under the State plan under this title, shall be deemed, for purposes of this title only, to be an individual with respect to whom a supplemental security income payment, or State supplemental payment, respectively, is being paid under title XVI.

(4) A child born to a woman eligible for and receiving medical assistance under a State plan on the date of the child's birth shall be deemed to have applied for medical assistance and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of one year so long as the child is a member of the woman's household and the woman remains (or would remain if pregnant) eligible for such assistance. During the period in which a child is deemed under the preceding sentence to be eligible for medical assistance, the medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).

(5) A woman who, while pregnant, is eligible for, has applied for, and has received medical assistance under the State plan, shall continue to be eligible under the plan, as though she were pregnant, for all pregnancy-related and postpartum medical assistance under the plan, through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends.

(6) In the case of a pregnant woman described in subsection (a)(10) who, because of a change in income of the family of which she is a member, would not otherwise continue to be described in such subsection, the woman shall be deemed to continue to be an individual described in subsection (a)(10)(A)(i)(IV) and subsection (l)(1)(A) without regard to such change of income through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends. The preceding sentence shall not apply in the case of a woman who has been provided ambulatory prenatal care pursuant to section 1920 during a presumptive eligibility period and is then, in accordance with such section, determined to be ineligible for medical assistance under the State plan.

(7) In the case of an infant or child described in subparagraph (B), (C), or (D) of subsection (l)(1) or paragraph (2) of section 1905(n)—

(A) who is receiving inpatient services for which medical assistance is provided on the date the infant or child attains the maximum age with respect to which coverage is provided under the State plan for such individuals, and

(B) who, but for attaining such age, would remain eligible for medical assistance under such subsection, the infant or child shall continue to be treated as an individual described in such respective provision until the end of the stay for which the inpatient services are furnished.

(8) If an individual is determined to be a qualified medicare beneficiary (as defined in section 1905(p)(1)), such determination shall apply to services furnished after the end of the month in which the determination first occurs. For purposes of payment to a State under section 1903(a), such determination shall be considered to be valid for an individual for a period of 12 months, except that a State may provide for such determinations more frequently, but not more frequently than once every 6 months for an individual.

(9)(A) At the option of the State, the plan may include as medical assistance respiratory care services for any individual who—

(i) is medically dependent on a ventilator for life support at least six hours per day;

(ii) has been so dependent for at least 30 consecutive days (or the maximum number of days authorized under the State plan, whichever is less) as an inpatient;

(iii) but for the availability of respiratory care services, would require respiratory care as an inpatient in a hospital, nursing facility, or intermediate care facility for the mentally retarded and would be eligible to have payment made for such inpatient care under the State plan;

(iv) has adequate social support services to be cared for at home; and

(v) wishes to be cared for at home.

(B) The requirements of subparagraph (A)(ii) may be satisfied by a continuous stay in one or more hospitals, nursing facilities, or intermediate care facilities for the mentally retarded.

(C) For purposes of this paragraph, respiratory care services means services provided on a part-time basis in the home of the individual by a respiratory therapist or other health care professional trained in respiratory therapy (as determined by the State), payment for which is not otherwise included within other items and services furnished to such individual as medical assistance under the plan.

(10)(A) The fact that an individual, child, or pregnant woman may be denied aid under part A of title IV pursuant to section 402(a)(43) shall not be construed as denying (or permitting a State to deny) medical assistance under this title to such individual, child, or woman who is eligible for assistance under this title on a basis other than the receipt of aid under such part.

(B) If an individual, child, or pregnant woman is receiving aid under part A of title IV and such aid is terminated pursuant to section 402(a)(43), the State may not discontinue medical assistance under this title for the individual, child, or woman until the State has determined that the individual, child, or woman is not eligible for assistance under this title on a basis other than the receipt of aid under such part.

(11)(A) In the case of an individual who is enrolled with a group health plan under section 1906 and who would (but for this paragraph) lose eligibility for benefits under this title before the end of the minimum enrollment period (defined in subparagraph (B)), the State plan may provide, notwithstanding any other provision of this title, that the individual shall be deemed to continue to be eligible for such benefits until the end of such minimum period, but only with respect to such benefits provided to the individual as an enrollee of such plan.

(B) For purposes of subparagraph (A), the term "minimum enrollment period" means, with respect to an individual's enrollment with a group health plan, a period established by the State, of not more than 6 months beginning on the date the individual's enrollment under the plan becomes effective.

(f) Notwithstanding any other provision of this title, except as provided in subsection (e) and section 1619(b)(3) and section 1924, except with respect to qualified disabled and working individuals (described in section 1905(s)), and except with respect to qualified medicare beneficiaries, qualified severely impaired individuals, and individuals described in subsection (m)(1), no State not eligible to participate in the State plan program established under title XVI shall be required to provide medical assistance to any aged, blind, or disabled individual (within the meaning of title XVI) for any month unless such State would be (or would have been) required to provide medical assistance to such individual for such month had its plan for medical assistance approved under this title and in effect on January 1, 1972, been in effect in such month, except that for this purpose any such individual shall be deemed eligible for medical assistance under such State plan if (in addition to meeting such other requirements as are or may be imposed under the State plan) the income of any such individual as determined in accordance with section 1903(f) (after deducting any supplemental security income payment and State supplementary payment made with respect to such individual, and incurred expenses for medical care as recognized under State law regardless of whether such expenses are reimbursed under another public program of the State or political subdivision thereof) is not in excess of the standard for medical assistance established under the State plan as in effect on January 1, 1972. In States which provide medical assistance to individuals pursuant to paragraph (10)(C) of subsection (a) of this section, an individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under paragraph (10)(A) of that subsection if that individual is, or is eligible to be (1) an individual with respect to whom there is payable a State supplementary payment on the basis of which similarly situated individuals are eligible to receive medical assistance equal in amount, duration, and scope to that provided to individuals eligible under paragraph (10)(A), or (2) an eligible individual or eligible spouse, as defined in title XVI, with respect to whom supplemental security income benefits are payable; otherwise that individual shall be considered to be an individual eligible for medical assistance under paragraph (10)(C) of that subsection. In States which do not provide medical assistance to individuals pursuant to paragraph (10)(C) of that subsection, an individual who is eligible for medical assistance by reason of the requirements of this section concerning the deduction of incurred medical expenses from income shall be considered an individual eligible for medical assistance under paragraph (10)(A) of that subsection.

(g) In addition to any other sanction available to a State, a State may provide for a reduction of any payment amount otherwise due with respect to a person who furnishes services under the plan in an amount equal to up to three times the amount of any payment sought to be collected by that person in violation of subsection (a)(25)(C).

(h) Nothing in this title (including subsections (a)(13) and (a)(30) of this section) shall be construed as authorizing the Secretary[64] to limit the amount of payment that may be made under a plan under this title for home and community care[65].

(i)(1) In addition to any other authority under State law, where a State determines that a[66] intermediate care facility for the mentally retarded[67] which is certified for participation under its plan no longer substantially meets the requirements for such a facility under this title[68] and further determines that the facility's deficiencies—

(A) immediately jeopardize the health and safety of its patients, the State shall provide for the termination of the facility's certification for participation under the plan and may provide, or

(B) do not immediately jeopardize the health and safety of its patients, the State may, in lieu of providing for terminating the facility's certification for participation under the plan, provide that no payment will be made under the State plan with respect to any individual admitted to such facility after a date specified by the State.

(2) The State shall not make such a decision with respect to a facility until the facility has had a reasonable opportunity, following the initial determination that it no longer substantially meets the requirements for such a facility under this title[69], to correct its deficiencies, and, following this period, has been given

reasonable notice and opportunity for a hearing.

(3) The State's decision to deny payment may be made effective only after such notice to the public and to the facility as may be provided for by the State, and its effectiveness shall terminate (A) when the State finds that the facility is in substantial compliance (or is making good faith efforts to achieve substantial compliance) with the requirements for such a facility under this title[70], or (B) in the case described in paragraph (1)(B), with the end of the eleventh month following the month such decision is made effective, whichever occurs first. If a facility to which clause (B) of the previous sentence applies still fails to substantially meet the provisions of the respective section on the date specified in such clause, the State shall terminate such facility's certification for participation under the plan effective with the first day of the first month following the month specified in such clause.

(j) Notwithstanding any other requirement of this title, the Secretary may waive or modify any requirement of this title with respect to the medical assistance program in American Samoa and the Northern Mariana Islands, other than a waiver of the Federal medical assistance percentage, the limitation in section 1108(c), or the requirement that payment may be made for medical assistance only with respect to amounts expended by American Samoa or the Northern Mariana Islands for care and services described in paragraphs (1) through (25)[71] of section 1905(a).

[(k) Stricken.][72]

(l)(1) Individuals described in this paragraph are—

(A) women during pregnancy (and during the 60-day period beginning on the last day of the pregnancy),

(B) infants under one year of age,

(C) children[73] children who have attained one year of age but have not attained 6 years of age, and

(D) children born after September 30, 1983, who have attained 6 years of age but have not attained 19 years of age,[74] who are not described in any of subclauses (I) through (III) of[75] subsection (a)(10)(A)(i) and whose family income does not exceed the income level established by the State under paragraph (2) for a family size equal to the size of the family, including the woman, infant, or child.[76]

(2)(A)(i) For purposes of paragraph (1) with respect to individuals described in subparagraph (A) or (B) of that paragraph, the State shall establish an income level which is a percentage (not less than the percentage provided under clause (ii) and not more than 185 percent) of the income official poverty line (as defined by the Office of Management and Budget Reconciliation Act of 1981[77]) applicable to a family of the size involved.

(ii) percentage provided under this clause, with respect to eligibility for medical assistance on or after—

(I) July 1, 1989, is 75 percent, or, if greater, the percentage provided under clause (iii), and

(II) April 1, 1990, 133 percent, or, if greater, the percentage provided under clause (iv).

(iii) In the case of a State which, as of the date of the enactment of this clause[78], has elected to provide, and provides, medical assistance to individuals described in this subsection or has enacted legislation authorizing, or appropriating funds, to provide such assistance to such individuals before July 1, 1989, the percentage provided under clause (ii)(I) shall not be less than—

(I) the percentage specified by the State in an amendment to its State plan (whether approved or not) as of the date of the enactment of this clause, or

(II) if no such percentage is specified as of the date of the enactment of this clause, the percentage established under the State's authorizing legislation or provided for under the State's appropriations; but in no case shall this clause require the percentage provided under clause (ii)(I) to exceed 100 percent.[79]

(iv) In the case of a State which, as of the date of the enactment of this clause[80] authorizing, or appropriating funds, to provide for, a percentage (of the income official poverty line) that is greater than 133 percent, the percentage provided under clause (ii) for medical assistance on or after April 1, 1990, shall not be less than—

(I) the percentage specified by the State in an amendment to its State plan (whether approved or not) as of the date of the enactment of this clause, or

(II) if no such percentage is specified as of the date of the enactment of this clause, the percentage established under the State's authorizing legislation or provided for under the State's appropriations.[81]

(B) For purposes of paragraph (1) with respect to individuals described in subparagraph (C) of such paragraph, the State shall establish an income level which is equal to 133 percent of the income official poverty line described in subparagraph (A) applicable to a family of the size involved.[82]

(C) For purposes of paragraph (1) with respect to individuals described in subparagraph (D) of that paragraph, the State shall establish an income level which is equal to 100 percent of the income official poverty line described in subparagraph (A) applicable to a family of the size involved.[83]

(3) Notwithstanding subsection (a)(17), for individuals who are eligible for medical assistance because of subsection (a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI), (a)(10)(A)(i)(VII),[84, 85] or[86] (a)(10)(A)(ii)(IX)—

(A) application of a resource standard shall be at the option of the State;

(B) any resource standard or methodology that is applied with respect to an individual described in subparagraph (A) of paragraph (1) may not be more restrictive than the resource standard or methodology that is applied under title XVI;

(C) any resource standard or methodology that is applied with respect to an individual described in subparagraph (B), (C), or (D)[87] of paragraph (1) may not be more restrictive than the corresponding methodology that is applied under the State plan under part A of title IV;

(D) the income standard to be applied is the appropriate income standard established under paragraph (2); and

(E) family income shall be determined in accordance with the methodology employed under the State plan under part A or E of title IV (except to the extent such methodology is inconsistent with clause (D) of subsection (a)(17)), and costs incurred for medical care or for any other type of remedial care shall not be taken into account. Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(17), require or permit such treatment for other individuals.

(4)(A) In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to provide medical assistance for pregnant women and infants under age 1 described in subsection (a)(10)(A)(i)(IV) and for children described in subsection (a)(10)(A)(i)(VI)[88] or subsection (a)(10)(A)(i)(VII)[89] in the same manner as the State would be required to provide such assistance for such individuals if the State had in effect a plan approved under this title.

(B) In the case of a State which is not one of the 50 States or the District of Columbia, the State need not meet the requirement of subsection (a)(10)(A)(i)(IV)[90] (a)(10)(A)(i)(VI), or (a)(10)(A)(i)(VII)[91] and, for purposes of paragraph (2)(A), the State may substitute for the percentage provided under clause (ii) of such paragraph any percentage.[92]

(m)(1) Individuals described in this paragraph are individuals—

(A) who are 65 years of age or older or are disabled individuals (as determined under section 1614(a)(3)),

(B) whose income (as determined under section 1612 for purposes of the supplemental security income program, except as provided in paragraph (2)(C)) does not exceed an income level established by the State consistent with paragraph (2)(A), and

(C) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed (except as provided in paragraph (2)(B)) the maximum amount of resources that an individual may have and obtain benefits under that program.

(2)(A) The income level established under paragraph (1)(B) may not exceed a percentage (not more than 100 percent) of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the

Omnibus Budget Reconciliation Act of 1981[93]) applicable to a family of the size involved.

(B) In the case of a State that provides medical assistance to individuals not described in subsection (a)(10)(A) and at the State's option, the State may use under paragraph (1)(C) such resource level (which is higher than the level described in that paragraph) as may be applicable with respect to individuals described in paragraph (1)(A) who are not described in subsection (a)(10)(A).

(C) The provisions of section 1905(p)(2)(D) shall apply to determinations of income under this subsection in the same manner as they apply to determinations of income under section 1905(p).

(3) Notwithstanding subsection (a)(17), for individuals described in paragraph (1) who are covered under the State plan by virtue of subsection (a)(10)(A)(ii)(X)—

(A) the income standard to be applied is the income standard described in paragraph (1)(B), and

(B) except as provided in section 1612(b)(4)(B)(ii), costs incurred for medical care or for any other type of remedial care shall not be taken into account in determining income. Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(17), require or permit such treatment for other individuals.

(4) Notwithstanding subsection (a)(17), for qualified medicare beneficiaries described in section 1905(p)(1)—

(A) the income standard to be applied is the income standard described in section 1905(p)(1)(B), and

(B) except as provided in section 1612(b)(4)(B)(ii), costs incurred for medical care or for any other type of remedial care shall not be taken into account in determining income. Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(17), require or permit such treatment for other individuals.

(n) In the case of medical assistance furnished under this title for medicare cost-sharing respecting the furnishing of a service or item to a qualified medicare beneficiary, the State plan may provide payment in an amount with respect to the service or item that results in the sum of such payment amount and any amount of payment made under title XVIII with respect to the service or item exceeding the amount that is otherwise payable under the State plan for the item or service for eligible individuals who are not qualified medicare beneficiaries.

(o) Notwithstanding any provision of subsection (a) to the contrary, a State plan under this title shall provide that any supplemental security income benefits paid by reason of subparagraph (E) or (G) of section 1611(e)(1) to an individual who—

(1) is eligible for medical assistance under the plan, and

(2) is in a hospital, skilled nursing facility, or intermediate care facility at the time such benefits are paid, will be disregarded for purposes of determining the amount of any post-eligibility contribution by the individual to the cost of the care and services provided by the hospital, skilled nursing facility, or intermediate care facility.

(p)(1) In addition to any other authority, a State may exclude any individual or entity for purposes of participating under the State plan under this title for any reason for which the Secretary could exclude the individual or entity from participation in a program under title XVIII under section 1128, 1128A, or 1866(b)(2).

(2) In order for a State to receive payments for medical assistance under section 1903(a), with respect to payments the State makes to a health maintenance organization (as defined in section 1903(m)) or to an entity furnishing services under a waiver approved under section 1915(b)(1), the State must provide that it will exclude from participation, as such an organization or entity, any organization or entity that—

(A) could be excluded under section 1128(b)(8) (relating to owners and managing employees who have been convicted of certain crimes or received other sanctions),

(B) has, directly or indirectly, a substantial contractual relationship (as defined by the Secretary) with an individual or entity that is described in section 1128(b)(8)(B), or

(C) employs or contracts with any individual or entity that is excluded from participation under this title under section 1128 or 1128A for the provision of health care, utilization review, medical social work, or administrative services or employs or contracts with any entity for the provision (directly or indirectly) through such an excluded individual or entity of such services.

(3) As used in this subsection, the term "exclude" includes the refusal to enter into or renew a participation agreement or the termination of such an agreement.

(q)(1)(A) In order to meet the requirement of subsection (a)(50), the State plan must provide that, in the case of an institutionalized individual or couple described in subparagraph (B), in determining the amount of the individual's or couple's income to be applied monthly to payment for the cost of care in an institution, there shall be deducted from the monthly income (in addition to other allowances otherwise provided under the State plan) a monthly personal needs allowance—

(i) which is reasonable in amount for clothing and other personal needs of the individual (or couple) while in an institution, and

(ii) which is not less (and may be greater) than the minimum monthly personal needs allowance described in paragraph (2).

(B) In this subsection, the term "institutionalized individual or couple" means an individual or married couple—

(i) who is an inpatient (or who are inpatients) in a medical institution or nursing facility for which payments are made under this title throughout a month, and

(ii) who is or are determined to be eligible for medical assistance under the State plan.

(2) The minimum monthly personal needs allowance described in this paragraph is $30 for an institutionalized individual and $60 for an institutionalized couple (if both are aged, blind, or disabled, and their incomes are considered available to each other in determining eligibility).

(r)(1) For purposes of sections 1902(a)(17) and 1924(d)(1)(D) and for purposes of a waiver under section 1915, with respect to the post-eligibility treatment of income of individuals who are institutionalized or receiving home or community-based services under such a waiver[94] there shall be disregarded reparation payments made by the Federal Republic of Germany and, there shall be taken into account amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including—

(i) medicare and other health insurance premiums, deductibles, or coinsurance, and

(ii) necessary medical or remedial care recognized under State law but not covered under the State plan under this title, subject to reasonable limits the State may establish on the amount of these expenses.

(2)(A) The methodology to be employed in determining income and resource eligibility for individuals under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), (a)(10)(A)(i)(VI),[95] (a)(10)(A)(i)(VII),[96] (a)(10)(A)(ii), (a)(10)(C)(i)(III), or (f) or under section 1905(p) may be less restrictive, and shall be no more restrictive, than the methodology—

(i) in the case of groups consisting of aged, blind, or disabled individuals, under the supplemental security income program under title XVI, or

(ii) in the case of other groups, under the State plan most closely categorically related.

(B) For purposes of this subsection and subsection (a)(10), methodology is considered to be "no more restrictive" if, using the methodology, additional individuals may be eligible for medical assistance and no individuals who are otherwise eligible are made ineligible for such assistance.

(s) In order to meet the requirements of subsection (a)(55), the State plan must provide that payments to hospitals under the plan for inpatient hospital services furnished to infants who have not attained the age of 1 year, and to children who have not attained the age of 6 years and who receive such services in a disproportionate share hospital described in section 1923(b)(1), shall—

(1) if made on a prospective basis (whether per diem, per case, or otherwise) provide for an outlier adjustment in payment amounts for medically necessary inpatient hospital services involving exceptionally high costs or exceptionally long lengths of stay,

(2) not be limited by the imposition of day limits with respect to the delivery of such services to such individuals, and

(3) not be limited by the imposition of dollar limits (other than such limits resulting from prospective payments as adjusted pursuant to paragraph (1)) with respect to the delivery of such services to any such individual who has not attained their first birthday (or in the case of such an individual who is an inpatient on his first birthday until such individual is discharged).[97]

(t) Nothing in this title (including sections 1903(a) and 1905(a)) shall be construed as authorizing the Secretary to deny or limit payments to a State for expenditures, for medical assistance for items or services, attributable to taxes of general applicability imposed with respect to the provision of such items or services.

(u)(1) Individuals described in this paragraph are individuals—

(A) who are entitled to elect COBRA continuation coverage (as defined in paragraph (3)),

(B) whose income (as determined under section 1612 for purposes of the supplemental security income program) does not exceed 100 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved,

(C) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed twice the maximum amount of resources that an individual may have and obtain benefits under that program, and

(D) with respect to whose enrollment for COBRA continuation coverage the State has determined that the savings in expenditures under this title resulting from such enrollment is likely to exceed the amount of payments for COBRA premiums made.

(2) For purposes of subsection (a)(10)(F) and this subsection, the term "COBRA premiums" means the applicable premium imposed with respect to COBRA continuation coverage.

(3) In this subsection, the term "COBRA continuation coverage" means coverage under a group health plan provided by an employer with 75 or more employees provided pursuant to title XXII of the Public Health Service Act, section 4980B of the Internal Revenue Code of 1986, or title VI of the Employee Retirement Income Security Act of 1974.

(4) Notwithstanding subsection (a)(17), for individuals described in paragraph (1) who are covered under the State plan by virtue of subsection (a)(10)(A)(ii)(XI)—

(A) the income standard to be applied is the income standard described in paragraph (1)(B), and

(B) except as provided in section 1612(b)(4)(B)(ii), costs incurred for medical care or for any other type of remedial care shall not be taken into account in determining income. Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(10)(B) or (a)(17), require or permit such treatment for other individuals.

(v)(1) A State plan may provide for the making of determinations of disability or blindness for the purpose of determining eligibility for medical assistance under the State plan by the single State agency or its designee, and make medical assistance available to individuals whom it finds to be blind or disabled and who are determined otherwise eligible for such assistance during the period of time prior to which a final determination of disability or blindness is made by the Social Security Administration with respect to such an individual. In making such determinations, the State must apply the definitions of disability and blindness found in section 1614(a) of the Social Security Act.[98]

(w)(1) For purposes of subsection (a)(57) and sections 1903(m)(1)(A) and 1919(c)(2)(E), the requirement of this subsection is that a provider or organization (as the case may be) maintain written policies and procedures with respect to all adult individuals receiving medical care by or through the provider or organization—

(A) to provide written information to each such individual concerning—

(i) an individual's rights under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives (as defined in paragraph (3)), and

(ii) the provider's or organization's written policies respecting the implementation of such rights;

(B) to document in the individual's medical record whether or not the individual has executed an advance directive;

(C) not to condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive;

(D) to ensure compliance with requirements of State law (whether statutory or as recognized by the courts of the State) respecting advance directives; and

(E) to provide (individually or with others) for education for staff and the community on issues concerning advance directives. Subparagraph (C) shall not be construed as requiring the provision of care which conflicts with an advance directive.

(2) The written information described in paragraph (1)(A) shall be provided to an adult individual—

(A) in the case of a hospital, at the time of the individual's admission as an inpatient,

(B) in the case of a nursing facility, at the time of the individual's admission as a resident,

(C) in the case of a provider of home health care or personal care services, in advance of the individual coming under the care of the provider,

(D) in the case of a hospice program, at the time of initial receipt of hospice care by the individual from the program, and

(E) in the case of a health maintenance organization, at the time of enrollment of the individual with the organization.

(3) Nothing in this section shall be construed to prohibit the application of a State law which allows for an objection on the basis of conscience for any health care provider or any agent of such provider which as a matter of conscience cannot implement an advance directive.

(4) In this subsection, the term "advance directive" means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law (whether statutory or as recognized by the courts of the State) and relating to the provision of such care when the individual is incapacitated.

(x) The Secretary shall establish a system, for implementation by not later than July 1, 1991, which provides for a unique identifier for each physician who furnishes services for which payment may be made under a State plan approved under this title.[99]

(y)(1) In addition to any other authority under State law, where a State determines that a psychiatric hospital which is certified for participation under its plan no longer meets the requirements for a psychiatric hospital (referred to in section 1905(h)) and further finds that the hospital's deficiencies—

(A) immediately jeopardize the health and safety of its patients, the State shall terminate the hospital's participation under the State plan; or

(B) do not immediately jeopardize the health and safety of its patients, the State may terminate the hospital's participation under the State plan, or provide that no payment will be made under the State plan with respect to any individual admitted to such hospital after the effective date of the finding, or both.

(2) Except as provided in paragraph (3), if a psychiatric hospital described in paragraph (1)(B) has not complied with the requirements for a psychiatric hospital under this title—

(A) within 3 months after the date the hospital is found to be out of compliance with such requirements, the State shall provide that no payment will be made under the State plan with respect to any individual admitted to such hospital after the end of such 3-month period, or

(B) within 6 months after the date the hospital is found to be out of compliance with such requirements, no Federal financial participation shall be provided under section 1903(a) with respect to further services provided in the hospital until the State finds that the hospital is in compliance with the requirements of this title.

(3) The Secretary may continue payments, over a period of not longer than 6 months from the date the hospital is found to be out of compliance with such requirements, if—

(A) the State finds that it is more appropriate to take alternative action to assure compliance of the hospital with the requirements than to terminate the certification of the hospital,

(B) the State has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action, and

(C) the State agrees to repay to the Federal Government payments received under this paragraph if the corrective action is not taken in accordance with the approved plan and timetable.

(z)(1) Individuals described in this paragraph are individuals not described in subsection (a)(10)(A)(i)—

(A) who are infected with tuberculosis;

(B) whose income (as determined under the State plan under this title with respect to disabled individuals) does not exceed the maximum amount of income a disabled individual described in subsection (a)(10)(A)(i) may have and obtain medical assistance under the plan; and

(C) whose resources (as determined under the State plan under this title with respect to disabled individuals) do not exceed the maximum amount of resources a disabled individual described in subsection (a)(10)(A)(i) may have and obtain medical assistance under the plan.

(2) For purposes of subsection (a)(10), the term "TB-related services" means each of the following services relating to treatment of infection with tuberculosis:

(A) Prescribed drugs.

(B) Physicians' services and services described in section 1905(a)(2).

(C) Laboratory and X-ray services (including services to confirm the presence of infection).

(D) Clinic services and Federally-qualified health center services.

(E) Case management services (as defined in section 1915(g)(2)).

(F) Services (other than room and board) designed to encourage completion of regimens of prescribed drugs by outpatients, including services to observe directly the intake of prescribed drugs.[100]

PAYMENT TO STATES[101]

SEC. 1903. [42 U.S.C. 1396b] (a) From the sums appropriated therefor, the Secretary (except as otherwise provided in this section) shall pay to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing January 1, 1966—

(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b), subject to subsections (g) and (j) of this section and subsection 1923(f)[102]) of the total amount expended during such quarter as medical assistance under the State plan[102]; plus

(2)(A) an amount equal to 75 per centum of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to compensation or training of skilled professional medical personnel, and staff directly supporting such personnel, of the State agency or any other public agency; plus

(B) notwithstanding paragraph (1) or subparagraph (A), with respect to amounts expended for nursing aide training and competency evaluation programs, and competency evaluation programs, described in section 1919(e)(1) (including the costs for nurse aides to complete such competency evaluation programs), regardless of whether the programs are provided in or outside nursing facilities or of the skill of the personnel involved in such programs, an amount equal to 50 percent (or, for calendar quarters beginning on or after July 1, 1988, and before October 1, 1990, the lesser of 90 percent or the Federal medical assistance percentage plus 25 percentage points) of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to such programs; plus

(C) an amount equal to 75 percent of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to preadmission screening and resident review activities conducted by the State under section 1919(e)(7); plus

(D) for each calendar quarter during—

(i) fiscal year 1991, an amount equal to 90 percent,

(ii) fiscal year 1992, an amount equal to 85 percent,

(iii) fiscal year 1993, an amount equal to 80 percent, and

(iv) fiscal year 1994 and thereafter, an amount equal to 75 percent,

of so much of the sums expended during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to State activities under section 1919(g); plus

(3) an amount equal to—

(A)(i) 90 per centum of so much of the sums expended during such quarter as are attributable to the design, development, or installation of such mechanized claims processing and information retrieval systems as the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of title XVIII, including the State's share of the cost of installing such a system to be used jointly in the administration of such State's plan and the plan of any other State approved under this title, and

(ii) 90 per centum of so much of the sums expended during any such quarter in the fiscal year ending June 30, 1972, or the fiscal year ending June 30, 1973, as are attributable to the design, development, or installation of cost determination systems for State-owned general hospitals (except that the total amount paid to all States under this clause for either such fiscal year shall not exceed $150,000), and

(B) 75 per centum of so much of the sums expended during such quarter as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under a contract with the State) of the type described in subparagraph (A)(i) (whether or not designed, developed, or installed with assistance under such subparagraph) which are approved by the Secretary and which include provision for prompt written notice to each individual who is furnished services covered by the plan, or to each individual in a sample group of individuals who are furnished such services, of the specific services (other than confidential services) so covered, the name of the person or persons furnishing the services, the date or dates on which the services were furnished, and the amount of the payment or payments made under the plan on account of the services; and

(C) 75 per centum of the sums expended with respect to costs incurred during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to the performance of medical and utilization review or quality review by a utilization and quality control peer review organization or by an entity which meets the requirements of section 1152, as determined by the Secretary, under a contract entered into under section 1902(d); and

(D) 75 percent of so much of the sums expended by the State plan during a quarter in 1991, 1992, or 1993, as the Secretary determines is attributable to the statewide adoption of a drug use review program which conforms to the requirements of section 1927(g); plus

(4) an amount equal to 100 percent of the sums expended during the quarter which are attributable to the costs of the implementation and operation of the immigration status verification system described in section 1137(d); plus

(5) an amount equal to 90 per centum of the sums expended during such quarter which are attributable to the offering, arranging, and furnishing (directly or on a contract basis) of family planning services and supplies;

(6) subject to subsection (b)(3), an amount equal to—

(A) 90 per centum of the sums expended during such a quarter within the twelve-quarter period beginning with the first quarter in which a payment is made to the State pursuant to this paragraph, and

(B) 75 per centum of the sums expended during each succeeding calendar quarter,

with respect to costs incurred during such quarter (as found necessary by the Secretary for the elimination of fraud in the provision and administration of medical assistance provided under the State plan) which are attributable to the establishment and operation of (including the training of personnel employed by) a State medicaid fraud control unit (described in subsection (q)); plus

(7) subject to section 1919(g)(3)(B),[104] an amount equal to 50 per centum of the remainder of the amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.[105]

(b)(1) Notwithstanding the preceding provisions of this section, the amount determined under subsection (a)(1) for any State for any quarter beginning after December 31, 1969, shall not take into account any amounts expended as medical assistance with respect to individuals aged 65 or over and disabled individuals entitled to hospital insurance benefits under title XVIII which would not have been so expended if the individuals involved had been enrolled in the insurance program established by part B of title XVIII, other than amounts expended under provisions of the plan of such State required by section 1902(a)(34).

(2) For limitation on Federal participation for capital expenditures which are out of conformity with a comprehensive plan of a State or areawide planning agency, see section 1122.

(3) The amount of funds which the Secretary is otherwise

obligated to pay a State during a quarter under subsection (a)(6) may not exceed the higher of—

(A) $125,000, or

(B) one-quarter of 1 per centum of the sums expended by the Federal, State, and local governments during the previous quarter in carrying out the State's plan under this title.

(c) Nothing in this title shall be construed as prohibiting or restricting, or authorizing the Secretary to prohibit or restrict, payment under subsection (a) for medical assistance for covered services furnished to a child with a disability because such services are included in the child's individualized education program established pursuant to part B of the Individuals with Disabilities Education Act[106] or furnished to an infant or toddler with a disability because such services are included in the child's individualized family service plan adopted pursuant to part H of such Act.

(d)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsections (a) and (b) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsections, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2)(A) The Secretary shall then pay to the State, in such installments as he may determine, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(B) Expenditures for which payments were made to the State under subsection (a) shall be treated as an overpayment to the extent that the State or local agency administering such plan has been reimbursed for such expenditures by a third party pursuant to the provisions of its plan in compliance with section 1902(a)(25).

(C) For purposes of this subsection, when an overpayment is discovered, which was made by a State to a person or other entity, the State shall have a period of 60 days in which to recover or attempt to recover such overpayment before adjustment is made in the Federal payment to such State on account of such overpayment. Except as otherwise provided in subparagraph (D), the adjustment in the Federal payment shall be made at the end of the 60 days, whether or not recovery was made.

(D) In any case where the State is unable to recover a debt which represents an overpayment (or any portion thereof) made to a person or other entity on account of such debt having been discharged in bankruptcy or otherwise being uncollectable, no adjustment shall be made in the Federal payment to such State on account of such overpayment (or portion thereof).

(3) The pro rata share to which the United States is equitably entitled, as determined by the Secretary, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to medical assistance furnished under the State plan shall be considered an overpayment to be adjusted under this subsection.

(4) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(5) In any case in which the Secretary estimates that there has been an overpayment under this section to a State on the basis of a claim by such State that has been disallowed by the Secretary under section 1116(d), and such State disputes such disallowance, the amount of the Federal payment in controversy shall, at the option of the State, be retained by such State or recovered by the Secretary pending a final determination with respect to such payment amount. If such final determination is to the effect that any amount was properly disallowed, and the State chose to retain payment of the amount in controversy, the Secretary shall offset, from any subsequent payments made to such State under this title, an amount equal to the proper amount of the disallowance plus interest on such amount disallowed for the period beginning on the date such amount was disallowed and ending on the date of such final determination at a rate (determined by the Secretary) based on the average of the bond equivalent of the weekly 90-day treasury bill auction rates during such period.

(6)(A) Each State (as defined in subsection (w)(7)(D)) shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to—

(i) provider-related donations made to the State or units of local government during such fiscal year, and

(ii) health care related taxes collected by the State or such units during such fiscal year.

(B) Each State shall include, in the first report submitted under paragraph (1) after the end of each fiscal year, information related to the total amount of payment adjustments made, and the amount of payment adjustments made to individual providers (by provider), under section 1923(c) during such fiscal year.

(e) A State plan approved under this title may include, as a cost with respect to hospital services under the plan under this title, periodic expenditures made to reflect transitional allowances established with respect to a hospital closure or conversion under section 1884.

(f)(1)(A) Except as provided in paragraph (4), payment under the preceding provisions of this section shall not be made with respect to any amount expended as medical assistance in a calendar quarter, in any State, for any member of a family the annual income of which exceeds the applicable income limitation determined under this paragraph.

(B)(i) Except as provided in clause (ii) of this subparagraph, the applicable income limitation with respect to any family is the amount determined, in accordance with standards prescribed by the Secretary, to be equivalent to 133 1/3 percent of the highest amount which would ordinarily be paid to a family of the same size without any income or resources, in the form of money payments, under the plan of the State approved under part A of title IV of this Act.

(ii) If the Secretary finds that the operation of a uniform maximum limits payments to families of more than one size, he may adjust the amount otherwise determined under clause (i) to take account of families of different sizes.[107]

(C) The total amount of any applicable income limitation determined under subparagraph (B) shall, if it is not a multiple of $100 or such other amount as the Secretary may prescribe, be rounded to the next higher multiple of $100 or such other amount, as the case may be.

(2)(A) In computing a family's income for purposes of paragraph (1), there shall be excluded any costs (whether in the form of insurance premiums or otherwise and regardless of whether such costs are reimbursed under another public program of the State or political subdivision thereof) incurred by such family for medical care or for any other type of remedial care recognized under State law or, (B) notwithstanding section 1916 at State option, an amount paid by such family, at the family's option, to the State, provided that the amount, when combined with costs incurred in prior months, is sufficient when excluded from the family's income to reduce such family's income below the applicable income limitation described in paragraph (1). The amount of State expenditures for which medical assistance is available under subsection (a)(1) will be reduced by amounts paid to the State pursuant to this subparagraph.[108]

(3) For purposes of paragraph (1)(B), in the case of a family consisting of only one individual, the "highest amount which would ordinarily be paid" to such family under the State's plan approved under part A of title IV of this Act shall be the amount determined by the State agency (on the basis of reasonable relationship to the amounts payable under such plan to families consisting of two or more persons) to be the amount of the aid which would ordinarily be payable under such plan to a family (without any income or resources) consisting of one person if such plan provided for aid to such a family.

(4) The limitations on payment imposed by the preceding provisions of this subsection shall not apply with respect to any amount expended by a State as medical assistance for any individual described in section 1902(a)(10)(A)(i)(III), 1902(a)(10)(A)(i)(IV), 1902(a)(10)(A)(i)(V),[109] 1902(a)(10)(A)(i)(VI),[110] 1902(a)(10)(A)(i)(VII),[111] 1902(a)(10)(A)(ii)(IX), 1902(a)(10)(A)(ii)(X), or 1905(p)(1) or for any individual—

(A) who is receiving aid or assistance under any plan of the State approved under title I, X, XIV or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or

(B) who is not receiving such aid or assistance, and with respect to whom such benefits are not being paid, but (i) is eligible to receive such aid or assistance, or to have such benefits paid with respect to him, or (ii) would be eligible to receive such aid or assistance, or to have such benefits paid with respect to him if he were not in a medical institution, or

(C) with respect to whom there is being paid, or who is eligible, or would be eligible if he were not in a medical institution, to have paid with respect to him, a State supplementary payment and is eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A), but only if the income of such individual (as determined under section 1612, but without regard to subsection (b) thereof) does not exceed 300 percent of the supplemental security income benefit rate established by section 1611(b)(1),

at the time of the provision of the medical assistance giving rise to such expenditure.

(g)(1) Subject to paragraph (3), with respect to amounts paid for the following services furnished under the State plan after June 30, 1973 (other than services furnished pursuant to a contract with a health maintenance organization as defined in section 1876 or which is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act[112])), the Federal medical assistance percentage shall be decreased as follows: After an individual has received inpatient hospital services or services in an intermediate care facility for the mentally retarded[113] for 60 day[114] or inpatient mental hospital services for 90 days (whether or not such days are consecutive), during any fiscal year, the Federal medical assistance percentage with respect to amounts paid for any such care furnished thereafter to such individual shall be decreased by a per centum thereof (determined under paragraph (5)) unless the State agency responsible for the administration of the plan makes a showing satisfactory to the Secretary that, with respect to each calendar quarter for which the State submits a request for payment at the full Federal medical assistance percentage for amounts paid for inpatient hospital services or services in an intermediate care facility for the mentally retarded[115] furnished beyond 60 days (or inpatient mental hospital services furnished beyond 90 days), such State has an effective program of medical review of the care of patients in mental hospitals and intermediate care facilities for the mentally retarded[116] pursuant to paragraphs (26) and (31) of section 1902(a) whereby the professional management of each case is reviewed and evaluated at least annually by independent professional review teams. In determining the number of days on which an individual has received services described in this subsection, there shall not be counted any days with respect to which such individual is entitled to have payments made (in whole or in part) on his behalf under section 1812.

(2) The Secretary shall, as part of his validation procedures under this subsection, conduct timely sample onsite surveys of private and public institutions in which recipients of medical assistance may receive care and services under a State plan approved under this title, and his findings with respect to such surveys (as well as the showings of the State agency required under this subsection) shall be made available for public inspection.

(3)(A) No reduction in the Federal medical assistance percentage of a State otherwise required to be imposed under this subsection shall take effect—

(i) if such reduction is due to the State's unsatisfactory or invalid showing made with respect to a calendar quarter beginning before January 1, 1977;

(ii) before January 1, 1978;

(iii) unless a notice of such reduction has been provided to the State at least 30 days before the date such reduction takes effect; or

(iv) due to the State's unsatisfactory or invalid showing made with respect to a calendar quarter beginning after September 30, 1977, unless notice of such reduction has been provided to the State no later than the first day of the fourth calendar quarter following the calendar quarter with respect to which such showing was made.

(B) The Secretary shall waive application of any reduction in the Federal medical assistance percentage of a State otherwise required to be imposed under paragraph (1) because a showing by the State, made under such paragraph with respect to a calendar quarter ending after January 1, 1977, and before January 1, 1978, is determined to be either unsatisfactory under such paragraph or invalid under paragraph (2), if the Secretary determines that the State's showing made under paragraph (1) with respect to any calendar quarter ending on or before December 31, 1978, is satisfactory under such paragraph and is valid under paragraph (2).

(4)(A) The Secretary may not find the showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory if the showing is submitted to the Secretary later than the 30th day after the last day of the calendar quarter, unless the State demonstrates to the satisfaction of the Secretary good cause for not meeting such deadline.

(B) The Secretary shall find a showing of a State, with respect to a calendar quarter under paragraph (1), to be satisfactory under such paragraph with respect to the requirement that the State conduct annual onsite inspections in mental hospitals and intermediate care facilities for the mentally retarded[117] under paragraphs (26) and (31) of section 1902(a), if the showing demonstrates that the State has conducted such an onsite inspection during the 12-month period ending on the last date of the calendar quarter—

(i) in each of not less than 98 per centum of the number of such hospitals and facilities requiring such inspection, and

(ii) in every such hospital or facility which has 200 or more beds,

and that, with respect to such hospitals and facilities not inspected within such period, the State has exercised good faith and due diligence in attempting to conduct such inspection, or if the State demonstrates to the satisfaction of the Secretary that it would have made such a showing but for failings of a technical nature only.

(5) In the case of a State's unsatisfactory or invalid showing made with respect to a type of facility or institutional services in a calendar quarter, the per centum amount of the reduction of the State's Federal medical assistance percentage for that type of services under paragraph (1) is equal to 33 1/3 per centum multiplied by a fraction, the denominator of which is equal to the total number of patients receiving that type of services in that quarter under the State plan in facilities or institutions for which a showing was required to be made under this subsection, and the numerator of which is equal to the number of such patients receiving such type of services in that quarter in those facilities or institutions for which a satisfactory and valid showing was not made for that calendar quarter.

(6)(A) Recertifications required under section 1902(a)(44) shall be conducted at least every 60 days in the case of inpatient hospital services.

(B)[118] Such recertifications in the case of services in an intermediate care facility for the mentally retarded[119] shall be conducted at least—

(i) 60 days after the date of the initial certification,
(ii) 180 days after the date of the initial certification,
(iii) 12 months after the date of the initial certification,
(iv) 18 months after the date of the initial certification,
(v) 24 months after the date of the initial certification, and
(vi) every 12 months thereafter.

(C) For purposes of determining compliance with the schedule established by this paragraph, a recertification shall be considered to have been done on a timely basis if it was performed not later than 10 days after the date the recertification was otherwise required and the State establishes good cause why the physician or other person making such recertification did not meet such schedule.

[(7) Stricken.[120]]

[(h) Stricken.[121]]

(i) Payment under the preceding provisions of this section shall not be made—

(1) for organ transplant procedures unless the State plan provides for written standards respecting the coverage of such procedures and unless such standards provide that—

(A) similarly situated individuals are treated alike; and

(B) any restriction, on the facilities or practitioners which may provide such procedures, is consistent with the accessibility of high quality care to individuals eligible for the procedures under the State plan; or

(2) with respect to any amount expended for an item or service (other than an emergency item or service, not including items or services furnished in an emergency room of a hospital) furnished—

(A) under the plan by any individual or entity during any period when the individual or entity is excluded from participation under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, or 1842(j)(2), or

(B) at the medical direction or on the prescription of a physician, during the period when such physician is excluded from participation under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, or 1842(j)(2) and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).

(3) with respect to any amount expended for inpatient hospital services furnished under the plan (other than amounts attributable to the special situation of a hospital which serves a disproportionate number of low income patients with special needs) to the extent that such amount exceeds the hospital's customary charges with respect to such services or (if such services are furnished under the plan by a public institution free of charge or at nominal charges to the public) exceeds an amount determined on the basis of those items (specified in regulations prescribed by the Secretary) included in the determination of such payment which the Secretary finds will provide fair compensation to such institution for such services; or

(4) with respect to any amount expended for care or services furnished under the plan by a hospital unless such hospital has

in effect a utilization review plan which meets the requirements imposed by section 1861(k) for purposes of title XVIII; and if such hospital has in effect such a utilization review plan for purposes of title XVIII, such plan shall serve as the plan required by this subsection (with the same standards and procedures and the same review committee or group) as a condition of payment under this title; the Secretary is authorized to waive the requirements of this paragraph if the State agency demonstrates to his satisfaction that it has in operation utilization review procedures which are superior in their effectiveness to the procedures required under section 1861(k); or

(5) with respect to any amount expended for any drug product for which payment may not be made under part B of title XVIII because of section 1862(c); or

(6) with respect to any amount expended for inpatient hospital tests (other than in emergency situations) not specifically ordered by the attending physician or other responsible practitioner; or

(7) with respect to any amount expended for clinical diagnostic laboratory tests performed by a physician, independent laboratory, or hospital, to the extent such amount exceeds the amount that would be recognized under section 1833(h) for such tests performed for an individual enrolled under part B of title XVIII; or

(8) with respect to any amount expended for medical assistance (A) for nursing facility services to reimburse (or otherwise compensate) a nursing facility for payment of a civil money penalty imposed under section 1919(h) or (B) for home and community care to reimburse (or otherwise compensate) a provider of such care for payment of a civil money penalty imposed under this title or title XI or for legal expenses in defense of an exclusion or civil money penalty under this title or title XI if there is no reasonable legal ground for the provider's case; or

(9) with respect to any amount of medical assistance for pregnant women and children described in section 1902(a)(10)(A)(ii)(IX), if the State has in effect, under its plan established under part A of title IV, payment levels that are less than the payment levels in effect under such plan on July 1, 1987;

(10)(A) with respect to covered outpatient drugs unless there is a rebate agreement in effect under section 1927 with respect to such drugs or unless section 1927(a)(3) applies, and

(B) with respect to any amount expended for an innovator multiple source drug (as defined in section 1927(k)) dispensed on or after July 1, 1991, if, under applicable State law, a less expensive multiple source drug could have been dispensed, but only to the extent that such amount exceeds the upper payment limit for such multiple source drug;[122]

(11) with respect to any amount expended for physicians' services furnished on or after the first day of the first quarter beginning more than 60 days after the date of establishment of the physician identifier system under section 1902(x), unless the

claim for the services includes the unique physician identifier provided under such system;[123]

(12)[124] with respect to any amount expended for physicians' services furnished by a physician on or after January 1, 1992, to—

(A) a child under 21 years of age, unless the physician—

(i) is certified in family practice or pediatrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or pediatrics,

(ii) is employed by, or affiliated with, a Federally-qualified health center (as defined in section 1905(l)(2)(B)),

(iii) holds admitting privileges at a hospital participating in a State plan approved under this title,

(iv) is a member of the National Health Service Corps,

(v) documents a current, formal, consultation and referral arrangement with a pediatrician or family practitioner who has the certification described in clause (i) for purposes of specialized treatment and admission to a hospital, or

(vi) has been certified by the Secretary as qualified to provide physicians' services to a child under 21 years of age; or

(B) to a pregnant woman (or during the 60 day period beginning on the date of termination of the pregnancy) unless the physician—

(i) is certified in family practice or obstetrics by the medical specialty board recognized by the American Board of Medical Specialties for family practice or obstetrics,

(ii) is employed by, or affiliated with, a Federally-qualified health center (as defined in section 1905(l)(2)(B)),

(iii) holds admitting privileges at a hospital participating in a State plan approved under this title,

(iv) is a member of the National Health Service Corps,

(v) documents a current, formal, consultation and referral arrangement with an obstetrician or family practitioner who has the certification described in clause (i) for purposes of specialized treatment and admission to a hospital, or

(vi) has been certified by the Secretary as qualified to provide physicians' services to pregnant women; or[125]

(13)[126] with respect to any amount expended to reimburse (or otherwise compensate) a nursing facility for payment of legal expenses associated with any action initiated by the facility that is dismissed on the basis that no reasonable legal ground existed for the institution of such action;[127]

(14) with respect to any amount expended on administrative costs to carry out the program under section 1928; or[128]

(15) with respect to any amount expended for a single-antigen vaccine and its administration in any case in which the administration of a combined antigen vaccine was medically

appropriate (as determined by the Secretary).[129]

(j) Notwithstanding the preceding provisions of this section, the amount determined under subsection (a)(1) for any State for any quarter shall be adjusted in accordance with section 1914.

(k) The Secretary is authorized to provide at the request of any State (and without cost to such State) such technical and actuarial assistance as may be necessary to assist such State to contract with any health maintenance organization which meets the requirements of subsection (m) of this section for the purpose of providing medical care and services to individuals who are entitled to medical assistance under this title.

[(l) Repealed.[130]]

(m)(1)(A) The term "health maintenance organization" means a public or private organization, organized under the laws of any State, which meets the requirement of section 1902(w) is a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act[131]) or which meets the requirement of section 1902(a) and—

(i) makes services it provides to individuals eligible for benefits under this title accessible to such individuals, within the area served by the organization, to the same extent as such services are made accessible to individuals (eligible for medical assistance under the State plan) not enrolled with the organization, and

(ii) has made adequate provision against the risk of insolvency, which provision is satisfactory to the State and which assures that individuals eligible for benefits under this title are in no case held liable for debts of the organization in case of the organization's insolvency.

(B) The duties and functions of the Secretary, insofar as they involve making determinations as to whether an organization is a health maintenance organization within the meaning of subparagraph (A), shall be integrated with the administration of section 1312 (a) and (b) of the Public Health Service Act.

(2)(A) Except as provided in subparagraphs (B), (C), and (G), no payment shall be made under this title to a State with respect to expenditures incurred by it for payment (determined under a prepaid capitation basis or under any other risk basis) for services provided by any entity (including a health insuring organization) which is responsible for the provision (directly or through arrangements with providers of services) of inpatient hospital services and any other service described in paragraph (2), (3), (4), (5), or (7) of section 1905(a) or for the provision of any three or more of the services described in such paragraphs unless—

(i) the Secretary has determined that the entity is a health maintenance organization as defined in paragraph (1);

(ii) less than 75 percent of the membership of the entity which is enrolled on a prepaid basis consists of individuals who (I) are insured for benefits under part B of title XVIII or for benefits under both parts A and B of such title, or (II) are eligible to receive benefits under this title;[132]

(iii) such services are provided for the benefit of individuals eligible for benefits under this title in accordance with a contract between the State and the entity under which prepaid payments to the entity are made on an actuarially sound basis and under which the Secretary must provide prior approval for contracts providing for expenditures in excess of $100,000;

(iv) such contract provides that the Secretary and the State (or any person or organization designated by either) shall have the right to audit and inspect any books and records of the entity (and of any subcontractor) that pertain (I) to the ability of the entity to bear the risk of potential financial losses, or (II) to services performed or determinations of amounts payable under the contract;

(v) such contract provides that in the entity's enrollment, reenrollment, or disenrollment of individuals who are eligible for benefits under this title and eligible to enroll, reenroll, or disenroll with the entity pursuant to the contract, the entity will not discriminate among such individuals on the basis of their health status or requirements for health care services;

(vi) such contract (I) except as provided under subparagraph (F), permits individuals who have elected under the plan to enroll with the entity for provision of such benefits to terminate such enrollment without cause as of the beginning of the first calendar month following a full calendar month after the request is made for such termination, and (II) provides for notification of each such individual, at the time of the individual's enrollment, of such right to terminate such enrollment;

(vii) such contract provides that, in the case of medically necessary services which were provided (I) to an individual enrolled with the entity under the contract and entitled to benefits with respect to such services under the State's plan and (II) other than through the organization because the services were immediately required due to an unforeseen illness, injury, or condition, either the entity or the State provides for reimbursement with respect to those services.

(viii) such contract provides for disclosure of information in accordance with section 1124 and paragraph (4) of this subsection;

(ix) such contract provides, in the case of an entity that has entered into a contract for the provision of services of such center with a federally qualified health center, that (I) rates of prepayment from the State are adjusted to reflect fully the rates of payment specified in section 1902(a)(13)(E), and (II) at the election of such center payments made by the entity to such a center for services described in 1905(a)(2)(C) are made at the rates of payment specified in section 1902(a)(13)(E);[133]

(x) any physician incentive plan that it operates meets the requirements described in section 1876(i)(8); and

(xi) such contract provides for maintenance of sufficient patient encounter data to identify the physician who delivers services to patients.[134]

(B) Subparagraph (A) except with respect to clause (ix) of subparagraph (A),[135] does not apply with respect to payments under this title to a State with respect to expenditures incurred by it for payment for services provided by an entity which—

(i)(I) received a grant of at least $100,000 in the fiscal year ending June 30, 1976, under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act[136], and for the period beginning July 1, 1976, and ending on the expiration of the period for which payments are to be made under this title has been the recipient of a grant under either such section; and

(II) provides to its enrollees, on a prepaid capitation risk basis or on any other risk basis, all of the services and benefits described in paragraphs (1), (2), (3), (4)(C), and (5) of section 1905(a) and, to the extent required by section 1902(a)(10)(D) to be provided under a State plan for medical assistance, the services and benefits described in paragraph (7) of section 1905(a); or

(ii) is a nonprofit primary health care entity located in a rural area (as defined by the Appalachian Regional Commission)—

(I) which received in the fiscal year ending June 30, 1976, at least $100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965[137], and

(II) for the period beginning July 1, 1976, and ending on the expiration of the period for which payments are to be made under this title either has been the recipient of a grant, subgrant, or subcontract under such Act or has provided services under a contract (initially entered into during a year in which the entity was the recipient of such a grant, subgrant, or subcontract) with a State agency under this title on a prepaid capitation risk basis or on any other risk basis; or

(iii) which has contracted with the single State agency for the provision of services (but not including inpatient hospital services) to persons eligible under this title on a prepaid risk basis prior to 1970.

(C) Subparagraph (A)(ii) shall not apply with respect to payments under this title to a State with respect to expenditures incurred by it for payment for services by an entity during the three-year period beginning on the date of enactment of this subsection[138] or beginning on the date the entity qualifies as a health maintenance organization (as determined by the Secretary), whichever occurs later, but only if the entity demonstrates to the satisfaction of the Secretary by the submission of plans for each year of such three-year period that it is making continuous efforts and progress toward achieving compliance with subparagraph (A)(ii).

(D) In the case of a health maintenance organization that is a public entity, the Secretary may modify or waive the requirement described in subparagraph (A)(ii) but only if the Secretary determines that the organization has taken and is taking reasonable efforts to enroll individuals who are not entitled to benefits under the State plan approved under this title or under title XVIII.

(E) In the case of a health maintenance organization that—

(i) is a nonprofit organization with at least 25,000 members,

(ii) is and has been a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act[139]) for a period of at least four years,

(iii) provides basic health services through members of the staff of the organization,

(iv) is located in an area designated as medically underserved under section 1302(7) of the Public Health Service Act, and

(v) previously received a waiver of the requirement described in subparagraph (A)(ii) under section 1115, the Secretary may modify or waive the requirement described in subparagraph (A)(ii) but only if the Secretary determines that special circumstances warrant such modification or waiver and that the organization has taken and is taking reasonable efforts to enroll individuals who are not entitled to benefits under the State plan approved under this title or under title XVIII.

(F) In the case of—

(i) a contract with an entity described in subparagraph (E) or (G), with a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act) which meets the requirement of subparagraph (A)(ii), or or[140] with an eligible organization with a contract under section 1876 which meets the requirement of subparagraph (A)(ii), or

(ii) a program pursuant to an undertaking described in paragraph (6) in which at least 25 percent of the membership enrolled on a prepaid basis are individuals who (I) are not insured for benefits under part B of title XVIII or eligible for benefits under this title, and (II) (in the case of such individuals whose prepayments are made in whole or in part by any government entity) had the opportunity at the time of enrollment in the program to elect other coverage of health care costs that would have been paid in whole or in part by any governmental entity,

a State plan may restrict the period in which requests for termination of enrollment without cause under subparagraph

(A)(vi)(I) are permitted to the first month of each period of enrollment, each such period of enrollment not to exceed six months in duration, but only if the State provides notification, at least twice per year, to individuals enrolled with such entity or organization of the right to terminate such enrollment and the restriction on the exercise of this right. Such restriction shall not apply to requests for termination of enrollment for cause.[141]

(G) In the case of an entity which is receiving (and has received during the previous two years) a grant of at least $100,000 under section 329(d)(1)(A) or 330(d)(1) of the Public Health Service Act or is receiving (and has received during the previous two years) at least $100,000 (by grant, subgrant, or subcontract) under the Appalachian Regional Development Act of 1965[142], clauses (i) and (ii) of subparagraph (A) shall not apply.

(H) In the case of an individual who—

(i) in a month is eligible for benefits under this title and enrolled with a health maintenance organization with a contract under this paragraph,

(ii) in the next month (or in the next 2 months) is not eligible for such benefits, but

(iii) in the succeeding month is again eligible for such benefits, the State plan, subject to subparagraph (A)(vi), may enroll the individual for that succeeding month with the health maintenance organization described in clause (i) if the organization continues to have a contract under this paragraph with the State.

[(3) Stricken.]

(4)(A) Each health maintenance organization which is not a qualified health maintenance organization (as defined in section 1310(d) of the Public Health Service Act[143]) must report to the State and, upon request, to the Secretary, the Inspector General of the Department of Health and Human Services, and the Comptroller General a description of transactions between the organization and a party in interest (as defined in section 1318(b) of such Act), including the following transactions:

(i) Any sale or exchange, or leasing of any property between the organization and such a party.

(ii) Any furnishing for consideration of goods, services (including management services), or facilities between the organization and such a party, but not including salaries paid to employees for services provided in the normal course of their employment.

(iii) Any lending of money or other extension of credit between the organization and such a party.

The State or Secretary may require that information reported respecting an organization which controls, or is controlled by, or is under common control with, another entity be in the form of a consolidated financial statement for the organization and such entity.

(B) Each organization shall make the information reported pursuant to subparagraph (A) available to its enrollees upon reasonable request.

(5)(A) If the Secretary determines that an entity with a contract under this subsection—

(i) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

(ii) imposes premiums on individuals enrolled under this subsection in excess of the premiums permitted under this title;

(iii) acts to discriminate among individuals in violation of the provision of paragraph (2)(A)(v), including expulsion or refusal to re-enroll an individual or engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this subsection) by eligible individuals with the organization whose medical condition or history indicates a need for substantial future medical services;

(iv) misrepresents or falsifies information that is furnished—

(I) to the Secretary or the State under this subsection, or

(II) to an individual or to any other entity under this subsection, or

(v) fails to comply with the requirements of section 1876(i)(8), the Secretary may provide, in addition to any other remedies available under law, for any of the remedies described in subparagraph (B).

(B) The remedies described in this subparagraph are—

(i) civil money penalties of not more than $25,000 for each determination under subparagraph (A), or, with respect to a determination under clause (iii) or (iv)(I) of such subparagraph, of not more than $100,000 for each such determination, plus, with respect to a determination under subparagraph (A)(ii), double the excess amount charged in violation of such subparagraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under subparagraph (A)(iii), $15,000 for each individual not enrolled as a result of a practice described in such subparagraph, or

(ii) denial of payment to the State for medical assistance furnished under the contract under this subsection for individuals enrolled after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (i) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

(6)(A) For purposes of this subsection and section 1902(e)(2)(A), in the case of the State of New Jersey, the term "contract" shall be deemed to include an undertaking by the State agency, in the State plan under this title, to operate a program meeting all requirements of this subsection.

(B) The undertaking described in subparagraph (A) must provide—

(i) for the establishment of a separate entity responsible for the operation of a program meeting the requirements of this subsection, which entity may be a subdivision of the State agency administering the State plan under this title;

(ii) for separate accounting for the funds used to operate such program;

(iii) for setting the capitation rates and any other payment rates for services provided in accordance with this subsection using a methodology satisfactory to the Secretary designed to ensure that total Federal matching payments under this title for such services will be lower than the matching payments that would be made for the same services, if provided under the State plan on a fee for service basis to an actuarially equivalent population; and

(iv) that the State agency will contract, for purposes of meeting the requirement under section 1902(a)(30)(C), with an organization or entity that under section 1154 reviews services provided by an eligible organization pursuant to a contract under section 1876 for the purpose of determining whether the quality of services meets professionally recognized standards of health care.

(C) The undertaking described in subparagraph (A) shall be subject to approval (and annual re-approval) by the Secretary in the same manner as a contract under this subsection.

(D) The undertaking described in subparagraph (A) shall not be eligible for a waiver under section 1915(b).

[(n) Repealed.[144]]

(o) Notwithstanding the preceding provisions of this section, no payment shall be made to a State under the preceding provisions of this section for expenditures for medical assistance provided for an individual under its State plan approved under this title to the extent that a private insurer (as defined by the Secretary by regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974))[145], a service benefit plan, and a health maintenance organization)[146] would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided medical assistance under the plan.

(p)(1) When a political subdivision of a State makes, for the State of which it is a political subdivision, or one State makes, for another State, the enforcement and collection of rights of support or payment assigned under section 1912, pursuant to a cooperative arrangement under such section (either within or outside of such State), there shall be paid to such political subdivision or such other State from amounts which would otherwise represent the Federal share of payments for medical assistance provided to the eligible individuals on whose behalf such enforcement and collection was made, an amount equal to 15 percent of any amount collected which is attributable to such rights of support or payment.

(2) Where more than one jurisdiction is involved in such enforcement or collection, the amount of the incentive payment determined under paragraph (1) shall be allocated among the jurisdictions in a manner to be prescribed by the Secretary.

(q) For the purposes of this section, the term "State medicaid fraud control unit" means a single identifiable entity of the State government which the Secretary certifies (and annually recertifies) as meeting the following requirements:

(1) The entity (A) is a unit of the office of the State Attorney General or of another department of State government which possesses statewide authority to prosecute individuals for criminal violations, (B) is in a State the constitution of which does not provide for the criminal prosecution of individuals by a statewide authority and has formal procedures, approved by the Secretary, that (i) assure its referral of suspected criminal violations relating to the program under this title to the appropriate authority or authorities in the State for prosecution and (ii) assure its assistance of, and coordination with, such authority or authorities in such prosecutions, or (C) has a formal working relationship with the office of the State Attorney General and has formal procedures (including procedures for its referral of suspected criminal violations to such office) which are approved by the Secretary and which provide effective coordination of activities between the entity and such office with respect to the detection, investigation, and prosecution of suspected criminal violations relating to the program under this title.

(2) The entity is separate and distinct from the single State agency that administers or supervises the administration of the State plan under this title.

(3) The entity's function is conducting a statewide program for the investigation and prosecution of violations of all applicable State laws regarding any and all aspects of fraud in connection with any aspect of the provision of medical assistance and the activities of providers of such assistance

under the State plan under this title.

(4) The entity has procedures for reviewing complaints of the abuse and neglect of patients of health care facilities which receive payments under the State plan under this title, and, where appropriate, for acting upon such complaints under the criminal laws of the State or for referring them to other State agencies for action.

(5) The entity provides for the collection, or referral for collection to a single State agency, of overpayments that are made under the State plan to health care facilities and that are discovered by the entity in carrying out its activities.

(6) The entity employs such auditors, attorneys, investigators, and other necessary personnel and is organized in such a manner as is necessary to promote the effective and efficient conduct of the entity's activities.

(7) The entity submits to the Secretary an application and annual reports containing such information as the Secretary determines, by regulation, to be necessary to determine whether the entity meets the other requirements of this subsection.

(r)(1)(A) In order to receive payments under paragraphs (2)(A) and (7) of subsection (a) without being subject to per centum reductions set forth in subparagraph (C) of this paragraph, a State must provide that mechanized claims processing and information retrieval systems of the type described in subsection (a)(3)(B) and detailed in an advance planning document approved by the Secretary are operational on or before the deadline established under subparagraph (B).

(B) The deadline for operation of such systems for a State is September 30, 1985.

(C) If a State fails to meet the deadline established under subparagraph (B), the per centums specified in paragraphs (2)(A) and (7) of subsection (a) with respect to that State shall each be reduced by 5 percentage points for the first two quarters beginning on or after such deadline, and shall be further reduced by an additional 5 percentage points after each period consisting of two quarters during which the Secretary determines the State fails to meet the requirements of subparagraph (A); except that—

(i) neither such per centum may be reduced by more than 25 percentage points by reason of this paragraph; and

(ii) no reduction shall be made under this paragraph for any quarter following the quarter during which such State meets the requirements of subparagraph (A).

(2)(A) In order to receive payments under paragraphs (2)(A) and (7) of subsection (a) without being subject to the per centum reductions set forth in subparagraph (C) of this paragraph, a State must have its mechanized claims processing and information retrieval systems, of the type required to be operational under paragraph (1), initially approved by the Secretary in accordance with paragraph (5)(A) on or before the deadline established under subparagraph (B).

(B) The deadline for approval of such systems for a State is the last day of the fourth quarter that begins after the date on which the Secretary determines that such systems became operational as required under paragraph (1).

(C) If a State fails to meet the deadline established under subparagraph (B), the per centums specified in paragraphs (2)(A) and (7) of subsection (a) with respect to that State shall each be reduced by 5 percentage points for the first two quarters beginning after such deadline, and shall be further reduced by an additional 5 percentage points at the end of each period consisting of two quarters during which the State fails to meet the requirements of subparagraph (A); except that—

(i) neither such per centum may be reduced by more than 25 percentage points by reason of this paragraph, and

(ii) no reduction shall be made under this paragraph for any quarter following the quarter during which such State's systems are approved by the Secretary as provided in subparagraph (A).

(D) Any State's systems which are approved by the Secretary for purposes of subsection (a)(3)(B) on or before the date of the enactment of this subsection[147] shall be deemed to be initially approved for purposes of this subsection.

(3)(A) When a State's systems are initially approved, the 75 per centum Federal matching provided in subsection (a)(3)(B) shall become effective with respect to such systems, retroactive to the first quarter beginning after the date on which such systems became operational as required under paragraph (1), except as provided in subparagraph (B).

(B) In the case of any State which was subject to a per centum reduction under paragraph (2), the per centum specified in subsection (a)(3)(B) shall be reduced by 5 percentage points for the first two quarters beginning after the deadline established under paragraph (2)(B), and shall be further reduced by an additional 5 percentage points at the end of each period consisting of two quarters beginning after such deadline and before the date on which such systems are initially approved, except that no reduction shall be made under this paragraph for any quarter following the quarter during which the State's systems are initially approved by the Secretary.

(4)(A) The Secretary shall review all approved systems not less often than once every three years, and shall reapprove or disapprove any such systems. Systems which fail to meet the current performance standards, system requirements, and any other conditions for approval developed by the Secretary under paragraph (6) shall be disapproved. Any State having systems which are so disapproved shall be subject to a per centum reduction under subparagraph (B). The Secretary shall make the determination of reapproval or disapproval and so notify the States not later than the end of the first quarter following the review period. Reviews may, at the Secretary's discretion, constitute reviews of the entire system or of only those standards, systems requirements, and other conditions which have demonstrated weakness in previous reviews.

(B) If the Secretary disapproves a State's systems under subparagraph (A), the Secretary shall, with respect to such State for quarters beginning after the determination of disapproval and before the first quarter beginning after such systems are reapproved, reduce the per centum specified in subsection (a)(3)(B) to a per centum of not less than 50 per centum and not more than 70 per centum as the Secretary determines to be appropriate and commensurate with the nature of noncompliance by such State; except that such per centum may not be reduced by more than 10 percentage points in any 4-quarter period by reason of this subparagraph. No State shall be subject to a per centum reduction under this paragraph (i) before the fifth quarter beginning after such State's systems were initially approved, or (ii) on the basis of a review conducted before October 1, 1981.

(C) The Secretary may retroactively waive a per centum reduction imposed under subparagraph (B), if the Secretary determines that the State's systems meet all current performance standards and other requirements for reapproval and that such action would improve the administration of the State's plan under this title, except that no such waiver may extend beyond the four quarters immediately prior to the quarter in which the State's systems are reapproved.

(5)(A) In order to be initially approved by the Secretary, mechanized claims processing and information retrieval systems must be of the type described in subsection (a)(3)(B) and must meet the following requirements:

(i) The systems must be capable of developing provider, physician, and patient profiles which are sufficient to provide specific information as to the use of covered types of services and items, including prescribed drugs.

(ii) The State must provide that information on probable fraud or abuse which is obtained from, or developed by, the systems, is made available to the State's medicaid fraud control unit (if any) certified under subsection (q) of this section.

(iii) The systems must meet all performance standards and other requirements for initial approval developed by the Secretary under paragraph (6).

(B) In order to be reapproved by the Secretary, mechanized claims processing and information retrieval systems must meet the requirements of subparagraphs (A)(i) and (A)(ii) and performance standards and other requirements for reapproval developed by the Secretary under paragraph (6).

(6) The Secretary, with respect to State systems, shall—

(A) develop performance standards, system requirements, and other conditions for approval for use in initially approving such State systems, and shall further develop written approval procedures for conducting reviews for initial approval, including specific criteria for assessing systems in operation to insure that all such performance standards and other requirements are met;

(B) by not later than October 1, 1980, develop an initial set of performance standards, system requirements, and other conditions for reapproval for use in reapproving or disapproving State systems, and shall further develop written reapproval procedures for conducting reviews for reapproval, including specific criteria for reassessing systems operations over a period of at least six months during each fiscal year to insure that all such performance standards and other requirements are met on a continuous basis;

(C) provide that reviews for reapproval, conducted before October 1, 1981, shall be for the purpose of developing a systems performance data base and assisting States to improve their systems, and that no per centum reduction shall be made under paragraph (4) on the basis of such a review;

(D) insure that review procedures, performance standards, and other requirements developed under subparagraph (B) are sufficiently flexible to allow for differing administrative needs among the States, and that such procedures, standards, and requirements are of a nature which will permit their use by the States for self-evaluation;

(E) notify all States of proposed procedures, standards, and other requirements at least one quarter prior to the fiscal year in which such procedures, standards, and other requirements will be used for conducting reviews for reapproval;

(F) periodically update the systems performance standards, system requirements, review criteria, objectives, regulations, and guides as the Secretary shall from time to time deem appropriate;

(G) provide technical assistance to States in the development and improvement of the systems so as to continually improve the capacity of such systems to effectively detect cases of fraud or abuse;

(H) for the purpose of insuring compatibility between the State systems and the systems utilized in the administration of title XVIII—

(i) develop a uniform identification coding system (to the extent feasible) for providers, other persons receiving payments under the State plans (approved under this title) or under title XVIII, and beneficiaries of medical services under such plans or title;

(ii) provide liaison between States and carriers and intermediaries having agreements under title XVIII to facilitate timely exchange of appropriate data; and

(iii) improve the exchange of data between the States and the Secretary with respect to providers and other persons who have been terminated, suspended, or otherwise sanctioned under a State plan (approved under this title) or under title XVIII;

(I) develop and disseminate clear definitions of those types of reasonable costs relating to State systems which are reimbursable under the provisions of subsection (a)(3) of this section; and

(J) develop and disseminate performance standards for assessing the State's third party collection efforts in accordance with section 1902(a)(25)(A)(ii).

(7)(A) The Secretary shall waive the provisions of this subsection with respect to initial operation and approval of mechanized claims processing and information retrieval systems with respect to any State which—

(i) had a 1976 population (as reported by the Bureau of the Census) of less than 1,000,000 and which made total expenditures (including Federal reimbursement) for which Federal financial participation is authorized under this title of less than $100,000,000 in fiscal year 1976 (as reported by such State for such year), or

(ii) is a Commonwealth, or territory or possession, of the United States, if such State reasonably demonstrates, and the Secretary does not formally disagree, that the application of such provisions would not significantly improve the efficiency of the administration of such State's plan under this title.

(B) If the Secretary determines that the application of the provisions described in subparagraph (A) to a State would significantly improve the efficiency of the administration of the State's plan under this title, the Secretary may withdraw the State's waiver under subparagraph (A) and, in such case, the Secretary shall impose a timetable for such State with respect to compliance with the provisions of this subsection and the imposition of per centum reductions. Such timetable shall be comparable to the timetable established under this subsection as to the amount of time allowed such State to comply and the timing of per centum reductions.

(8)(A) The per centum reductions provided for under this subsection shall not apply to a State for any quarter with respect to which the Secretary determines that such State is unable to comply with the relevant requirements of this subsection—

(i) for good cause (but such a waiver may not be for a period in excess of 2 quarters), or

(ii) due to circumstances beyond the control of such State.

(B) If the Secretary determines under subparagraph (A) that such a reduction will not apply to a State, the Secretary shall report to the Congress on the basis for each such determination and on the modification of all time limitations and deadlines as described in subparagraph (C).

(C) For purposes of determining all time limitations and deadlines imposed under this subsection, any time period during which a State was found under subparagraph (A)(ii) to be unable to comply with requirements of this subsection due to circumstances beyond its control shall not be taken into account, and the Secretary shall modify all such time limitations and deadlines with respect to such State accordingly.

(s) Notwithstanding the preceding provisions of this section, no payment shall be made to a State under this section for expenditures for medical assistance under the State plan consisting of a designated health service (as defined in subsection (h)(6) of section 1877) furnished to an individual on the basis of a referral that would result in the denial of payment for the service under title XVIII if such title provided for coverage of such service to the same extent and under the same terms and conditions as under the State plan, and subsections (f) and (g)(5) of such section shall apply to a provider of such a designated health service for which payment may be made under this title in the same manner as such subsections apply to a provider of such a service for which payment may be made under such title.[148]

[(t) Repealed.[149]]

(u)(1)(A) Notwithstanding subsection (a)(1), if the ratio of a State's erroneous excess payments for medical assistance (as defined in subparagraph (D)) to its total expenditures for medical assistance under the State plan approved under this title exceeds 0.03, for the period consisting of the third and fourth quarters of fiscal year 1983, or for any full fiscal year thereafter, then the Secretary shall make no payment for such period or fiscal year with respect to so much of such erroneous excess payments as exceeds such allowable error rate of 0.03.

(B) The Secretary may waive, in certain limited cases, all or part of the reduction required under subparagraph (A) with respect to any State if such State is unable to reach the allowable error rate for a period or fiscal year despite a good faith effort by such State.

(C) In estimating the amount to be paid to a State under subsection (d), the Secretary shall take into consideration the limitation on Federal financial participation imposed by subparagraph (A) and shall reduce the estimate he makes under subsection (d)(1), for purposes of payment to the State under subsection (d)(3), in light of any expected erroneous excess payments for medical assistance (estimated in accordance with such criteria, including sampling procedures, as he may prescribe and subject to subsequent adjustment, if necessary, under subsection (d)(2)).

(D)(i) For purposes of this subsection, the term "erroneous excess payments for medical assistance" means the total of—

(I) payments under the State plan with respect to ineligible individuals and families, and

(II) overpayments on behalf of eligible individuals and families by reason of error in determining the amount of expenditures for medical care required of an individual or family as a condition of eligibility.

(ii) In determining the amount of erroneous excess payments for medical assistance to an ineligible individual or family under clause (i)(I), if such ineligibility is the result of an error in determining the amount of the resources of such individual or family, the amount of the erroneous excess payment shall be the smaller of (I) the amount of the payment with respect to such individual or family, or (II) the difference between the actual amount of such resources and the allowable resource level established under the State plan.

(iii) In determining the amount of erroneous excess payments for medical assistance to an individual or family under clause (i)(II), the amount of the erroneous excess payment shall be the smaller of (I) the amount of the payment on behalf of the individual or family, or (II) the difference between the actual amount incurred for medical care by the individual or family and the amount which should have been incurred in order to establish eligibility for medical assistance.

(iv) In determining the amount of erroneous excess payments, there shall not be included any error resulting from a failure of an individual to cooperate or give correct information with respect to third-party liability as required under section 1912(a)(1)(C) or 402(a)(26)(C) or with respect to payments made in violation of section 1906[150].

(v) In determining the amount of erroneous excess payments, there shall not be included any erroneous payments made for ambulatory prenatal care provided during a presumptive eligibility period (as defined in section 1920(b)(1)).

(E) For purposes of subparagraph (D), there shall be excluded, in determining both erroneous excess payments for medical assistance and total expenditures for medical assistance—

(i) payments with respect to any individual whose eligibility therefor was determined exclusively by the Secretary under an agreement pursuant to section 1634 and such other classes of individuals as the Secretary may by regulation prescribe whose eligibility was determined in part under such an agreement; and

(ii) payments made as the result of a technical error.[151]

(2) The State agency administering the plan approved under this title shall, at such times and in such form as the Secretary may specify, provide information on the rates of erroneous excess payments made (or expected, with respect to future periods specified by the Secretary) in connection with its administration of

such plan, together with any other data he requests that are reasonably necessary for him to carry out the provisions of this subsection.

(3)(A) If a State fails to cooperate with the Secretary in providing information necessary to carry out this subsection, the Secretary, directly or through contractual or such other arrangements as he may find appropriate, shall establish the error rates for that State on the basis of the best data reasonably available to him and in accordance with such techniques for sampling and estimating as he finds appropriate.

(B) In any case in which it is necessary for the Secretary to exercise his authority under subparagraph (A) to determine a State's error rates for a fiscal year, the amount that would otherwise be payable to such State under this title for quarters in such year shall be reduced by the costs incurred by the Secretary in making (directly or otherwise) such determination.

(4) This subsection shall not apply with respect to Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, or American Samoa.[152]

(v)(1) Notwithstanding the preceding provisions of this section, except as provided in paragraph (2), no payment may be made to a State under this section for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

(2) Payment shall be made under this section for care and services that are furnished to an alien described in paragraph (1) only if—

(A) such care and services are necessary for the treatment of an emergency medical condition of the alien,[153]

(B) such alien otherwise meets the eligibility requirements for medical assistance under the State plan approved under this title (other than the requirement of the receipt of aid or assistance under title IV, supplemental security income benefits under title XVI, or a State supplementary payment), and[154]

(C) such care and services are not related to an organ transplant procedure.[155]

(3) For purposes of this subsection, the term "emergency medical condition" means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

(A) placing the patient's health in serious jeopardy,

(B) serious impairment to bodily functions, or

(C) serious dysfunction of any bodily organ or part.

(w)(1)(A) Notwithstanding the previous provisions of this section, for purposes of determining the amount to be paid to a

State (as defined in paragraph (7)(D)) under subsection (a)(1) for quarters in any fiscal year, the total amount expended during such fiscal year as medical assistance under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during the fiscal year—

(i) from provider-related donations (as defined in paragraph (2)(A)), other than—

(I) bona fide provider-related donations (as defined in paragraph (2)(B)), and

(II) donations described in paragraph (2)(C);

(ii) from health care related taxes (as defined in paragraph (3)(A)), other than broad-based health care related taxes (as defined in paragraph (3)(B));

(iii) from a broad-based health care related tax, if there is in effect a hold harmless provision (described in paragraph (4)) with respect to the tax; or

(iv) only with respect to State fiscal years (or portions thereof) occurring on or after January 1, 1992, and before October 1, 1995, from broad-based health care related taxes to the extent the amount of such taxes collected exceeds the limit established under paragraph (5).

(B) Notwithstanding the previous provisions of this section, for purposes[156] of determining the amount to be paid to a State under subsection (a)(7) for all quarters in a Federal fiscal year (beginning with fiscal year 1993), the total amount expended during the fiscal year for administrative expenditures under the State plan (as determined without regard to this subsection) shall be reduced by the sum of any revenues received by the State (or by a unit of local government in the State) during such quarters from donations described in paragraph (2)(C), to the extent the amount of such donations exceeds 10 percent of the amounts expended under the State plan under this title during the fiscal year for purposes described in paragraphs (2), (3), (4), (6), and (7) of subsection (a).

(C)(i) Except as otherwise provided in clause (ii), subparagraph (A)(i) shall apply to donations received on or after January 1, 1992.

(ii) Subject to the limits described in clause (iii) and subparagraph (E), subparagraph (A)(i) shall not apply to donations received before the effective date specified in subparagraph (F) if such donations are received under programs in effect or as described in State plan amendments or related documents submitted to the Secretary by September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

(iii) In applying clause (ii) in the case of donations received in State fiscal year 1993, the maximum amount of such donations to which such clause may be applied may not exceed the total amount of such donations received in the corresponding period in State fiscal year 1992 (or not later than 5 days after the last day of the corresponding period).

(D)(i) Except as otherwise provided in clause (ii), subparagraphs (A)(ii) and (A)(iii) shall apply to taxes received on or after January 1, 1992.

(ii) Subparagraphs (A)(ii) and (A)(iii) shall not apply to impermissible taxes (as defined in clause (iii)) received before the effective date specified in subparagraph (F) to the extent the taxes (including the tax rate or base) were in effect, or the legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

(iii) In this subparagraph and subparagraph (E), the term "impermissible tax" means a health care related tax for which a reduction may be made under clause (ii) or (iii) of subparagraph (A).

(E)(i) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for the portion of State fiscal year 1992 occurring during calendar year 1992 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in the portion of that fiscal year.

(ii) In no case may the total amount of donations and taxes permitted under the exception provided in subparagraphs (C)(ii) and (D)(ii) for State fiscal year 1993 exceed the limit under paragraph (5) minus the total amount of broad-based health care related taxes received in that fiscal year.

(F) In this paragraph in the case of a State—

(i) except as provided in clause (iii), with a State fiscal year beginning on or before July 1, the effective date is October 1, 1992,

(ii) except as provided in clause (iii), with a State fiscal year that begins after July 1, the effective date is January 1, 1993, or

(iii) with a State legislature which is not scheduled to have a regular legislative session in 1992, with a State legislature which is not scheduled to have a regular legislative session in 1993, or with a provider-specific tax enacted on November 4, 1991, the effective date is July 1, 1993.

(2)(A) In this subsection (except as provided in paragraph (6)), the term "provider-related donation" means any donation or other voluntary payment (whether in cash or in kind) made (directly or indirectly) to a State or unit of local government by—

(i) a health care provider (as defined in paragraph (7)(B)),

(ii) an entity related to a health care provider (as defined in paragraph (7)(C)), or

(iii) an entity providing goods or services under the State plan for which payment is made to the State under paragraph

(2), (3), (4), (6), or (7) of subsection (a).

(B) For purposes of paragraph (1)(A)(i)(I), the term "bona fide provider-related donation" means a provider-related donation that has no direct or indirect relationship (as determined by the Secretary) to payments made under this title to that provider, to providers furnishing the same class of items and services as that provider, or to any related entity, as established by the State to the satisfaction of the Secretary. The Secretary may by regulation specify types of provider-related donations described in the previous sentence that will be considered to be bona fide provider-related donations.

(C) For purposes of paragraph (1)(A)(i)(II), donations described in this subparagraph are funds expended by a hospital, clinic, or similar entity for the direct cost (including costs of training and of preparing and distributing outreach materials) of State or local agency personnel who are stationed at the hospital, clinic, or entity to determine the eligibility of individuals for medical assistance under this title and to provide outreach services to eligible or potentially eligible individuals.

(3)(A) In this subsection (except as provided in paragraph (6)), the term "health care related tax" means a tax (as defined in paragraph (7)(F)) that—

(i) is related to health care items or services, or to the provision of, the authority to provide, or payment for, such items or services, or

(ii) is not limited to such items or services but provides for treatment of individuals or entities that are providing or paying for such items or services that is different from the treatment provided to other individuals or entities.

In applying clause (i), a tax is considered to relate to health care items or services if at least 85 percent of the burden of such tax falls on health care providers.

(B) In this subsection, the term "broad-based health care related tax" means a health care related tax which is imposed with respect to a class of health care items or services (as described in paragraph (7)(A)) or with respect to providers of such items or services and which, except as provided in subparagraphs (D) and (E)—

(i) is imposed at least with respect to all items or services in the class furnished by all non-Federal, nonpublic providers in the State (or, in the case of a tax imposed by a unit of local government, the area over which the unit has jurisdiction) or is imposed with respect to all non-Federal, nonpublic providers in the class; and

(ii) is imposed uniformly (in accordance with subparagraph (C)).

(C)(i) Subject to clause (ii), for purposes of subparagraph (B)(ii), a tax is considered to be imposed uniformly if—

(I) in the case of a tax consisting of a licensing fee or similar tax on a class of health care items or services (or providers of such items or services), the amount of the tax imposed is the same for every provider providing items or services within the class;

(II) in the case of a tax consisting of a licensing fee or similar tax imposed on a class of health care items or services (or providers of such services) on the basis of the number of beds (licensed or otherwise) of the provider, the amount of the tax is the same for each bed of each provider of such items or services in the class;

(III) in the case of a tax based on revenues or receipts with respect to a class of items or services (or providers of items or services) the tax is imposed at a uniform rate for all items and services (or providers of such items of services) in the class on all the gross revenues or receipts, or net operating revenues, relating to the provision of all such items or services (or all such providers) in the State (or, in the case of a tax imposed by a unit of local government within the State, in the area over which the unit has jurisdiction); or

(IV) in the case of any other tax, the State establishes to the satisfaction of the Secretary that the tax is imposed uniformly.

(ii) Subject to subparagraphs (D) and (E), a tax imposed with respect to a class of health care items and services is not considered to be imposed uniformly if the tax provides for any credits, exclusions, or deductions which have as their purpose or effect the return to providers of all or a portion of the tax paid in a manner that is inconsistent with subclauses (I) and (II) of subparagraph (E)(ii) or provides for a hold harmless provision described in paragraph (4).

(D) A tax imposed with respect to a class of health care items and services is considered to be imposed uniformly—

(i) notwithstanding that the tax is not imposed with respect to items or services (or the providers thereof) for which payment is made under a State plan under this title or title XVIII, or

(ii) in the case of a tax described in subparagraph (C)(i)(III), notwithstanding that the tax provides for exclusion (in whole or in part) of revenues or receipts from a State plan under this title or title XVIII.

(E)(i) A State may submit an application to the Secretary requesting that the Secretary treat a tax as a broad-based health care related tax, notwithstanding that the tax does not apply to all health care items or services in class (or all providers of such items and services), provides for a credit, deduction, or exclusion, is not applied uniformly, or otherwise does not meet the requirements of subparagraph (B) or (C). Permissible waivers may include exemptions for rural or sole-community providers.

(ii) The Secretary shall approve such an application if the

State establishes to the satisfaction of the Secretary that—

(I) the net impact of the tax and associated expenditures under this title as proposed by the State is generally redistributive in nature, and

(II) the amount of the tax is not directly correlated to payments under this title for items or services with respect to which the tax is imposed.

The Secretary shall by regulation specify types of credits, exclusions, and deductions that will be considered to meet the requirements of this subparagraph.

(4) For purposes of paragraph (1)(A)(iii), there is in effect a hold harmless provision with respect to a broad-based health care related tax imposed with respect to a class of items or services if the Secretary determines that any of the following applies:

(A) The State or other unit of government imposing the tax provides (directly or indirectly) for a payment (other than under this title) to taxpayers and the amount of such payment is positively correlated either to the amount of such tax or to the difference between the amount of the tax and the amount of payment under the State plan.

(B) All or any portion of the payment made under this title to the taxpayer varies based only upon the amount of the total tax paid.

(C) The State or other unit of government imposing the tax provides (directly or indirectly) for any payment, offset, or waiver that guarantees to hold taxpayers harmless for any portion of the costs of the tax. The provisions of this paragraph shall not prevent use of the tax to reimburse health care providers in a class for expenditures under this title nor preclude States from relying on such reimbursement to justify or explain the tax in the legislative process.

(5)(A) For purposes of this subsection, the limit under this subparagraph with respect to a State is an amount equal to 25 percent (or, if greater, the State base percentage, as defined in subparagraph (B)) of the non-Federal share of the total amount expended under the State plan during a State fiscal year (or portion thereof), as it would be determined pursuant to paragraph (1)(A) without regard to paragraph (1)(A)(iv).

(B)(i) In subparagraph (A), the term "State base percentage" means, with respect to a State, an amount (expressed as a percentage) equal to—

(I) the total of the amount of health care related taxes (whether or not broad-based) and the amount of provider-related donations (whether or not bona fide) projected to be collected (in accordance with clause (ii)) during State fiscal year 1992, divided by

(II) the non-Federal share of the total amount estimated to be expended under the State plan during such State fiscal year.

(ii) For purposes of clause (i)(I), in the case of a tax that is not in effect throughout State fiscal year 1992 or the rate (or base) of which is increased during such fiscal year, the Secretary shall project the amount to be collected during such fiscal year as if the tax (or increase) were in effect during the entire State fiscal year.

(C)(i) The total amount of health care related taxes under subparagraph (B)(i)(I) shall be determined by the Secretary based on only those taxes (including the tax rate or base) which were in effect, or for which legislation or regulations imposing such taxes were enacted or adopted, as of November 22, 1991.

(ii) The amount of provider-related donations under subparagraph (B)(i)(I) shall be determined by the Secretary based on programs in effect on September 30, 1991, and applicable to State fiscal year 1992, as demonstrated by State plan amendments, written agreements, State budget documentation, or other documentary evidence in existence on that date.

(iii) The amount of expenditures described in subparagraph (B)(i)(II) shall be determined by the Secretary based on the best data available as of the date of the enactment of this subsection.

(6)(A) Notwithstanding the provisions of this subsection, the Secretary may not restrict States' use of funds where such funds are derived from State or local taxes (or funds appropriated to State university teaching hospitals) transferred from or certified by units of government within a State as the non-Federal share of expenditures under this title, regardless of whether the unit of government is also a health care provider, except as provided in section 1902(a)(2), unless the transferred funds are derived by the unit of government from donations or taxes that would not otherwise be recognized as the non-Federal share under this section.

(B) For purposes of this subsection, funds the use of which the Secretary may not restrict under subparagraph (A) shall not be considered to be a provider-related donation or a health care related tax.

(7) For purposes of this subsection:

(A) Each of the following shall be considered a separate class of health care items and services:

(i) Inpatient hospital services.

(ii) Outpatient hospital services.

(iii) Nursing facility services (other than services of intermediate care facilities for the mentally retarded).

(iv) Services of intermediate care facilities for the mentally retarded.

(v) Physicians' services.

(vi) Home health care services.

(vii) Outpatient prescription drugs.

(viii) Services of health maintenance organizations (and other organizations with contracts under section 1903(m)).

(ix) Such other classification of health care items and services consistent with this subparagraph as the Secretary may establish by regulation.

(B) The term "health care provider" means an individual or person that receives payments for the provision of health care items or services.

(C) An entity is considered to be "related" to a health care provider if the entity—

(i) is an organization, association, corporation or partnership formed by or on behalf of health care providers;

(ii) is a person with an ownership or control interest (as defined in section 1124(a)(3)) in the provider;

(iii) is the employee, spouse, parent, child, or sibling of the provider (or of a person described in clause (ii)); or

(iv) has a similar, close relationship (as defined in regulations) to the provider.

(D) The term "State" means only the 50 States and the District of Columbia but does not include any State whose entire program under this title is operated under a waiver granted under section 1115.

(E) The "State fiscal year" means, with respect to a specified year, a State fiscal year ending in that specified year.

(F) The term "tax" includes any licensing fee, assessment, or other mandatory payment, but does not include payment of a criminal or civil fine or penalty (other than a fine or penalty imposed in lieu of or instead of a fee, assessment, or other mandatory payment).

(G) The term "unit of local government" means, with respect to a State, a city, county, special purpose district, or other governmental unit in the State.[157]

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[1] See Vol. II, P.L. 93-233, §13(c), with respect to medicaid eligibility for individuals receiving mandatory State supplementary payments.

See Vol. II, P.L. 100-203, §4211(c), with respect to evaluation and report regarding the resident assessment process.

See Vol. II, P.L. 102-234, §3(c)(2), with respect to the proposed rule promulgated by the Secretary on October 31, 1991.

[2] P.L. 91-648, §208(a)(3)(D), transferred to the U.S. Civil Service Commission, effective March 6, 1971, all powers, functions, and duties of the Secretary under subparagraph (A). Functions of the Commission were transferred to the Director of the Office of Personnel Management under §102 of Reorganization Plan No. 2 of 1978 (5 U.S.C. 1101 note), effective January 1, 1979.

[3] P.L. 100-485, §202(c)(4), struck out "414(g)" and substituted "482(e)(6)". For the effective date, see Vol. II, P.L. 100-485, §204(a) and (b)(1).

[4] P.L. 100-360, §302(a)(1)(A), added subclause (IV). For the effective date, see Vol. II, P.L. 100-360, §302(f).

P.L. 101-239, §6401(a)(1)(A), struck out "or".

[5] P.L. 101-239, §6401(a)(1)(C), added subclause (VI). For the effective date, see Vol. II, P.L. 101-239, §6401(c).

P.L. 101-508, §4601(a)(1)(A)(ii), struck out the semicolon and substituted ", or".

[6] P.L. 101-508, §4601(a)(1)(A)(iii), added subclause (VII). For the effective date, see Vol. II, P.L. 101-508, §4601(b).

[7] See Vol. II, P.L. 99-272, §9529(b)(2), with respect to determinations that the requirements of these subdivisions shall be deemed to be met.

[8] P.L. 103-66, §13603(a)(1), struck out "or".

[9] P.L. 103-296, §108(d)(1), struck out "Secretary" and substituted "Commissioner of Social Security", effective August 15, 1994.

[10] P.L. 103-66, §13603(a)(2), added "or".

[11] P.L. 103-66, §13603(a)(3), added subclause (XII), applicable to medical assistance furnished on or after January 1, 1994, without regard to whether or not final regulations to carry out this amendment have been promulgated by such date.

[12] P.L. 103-66, §13601(b)(1), struck out "through (21)" and substituted "through (24)", effective with respect to personal care services provided on or after October 1, 1994.

[13] P.L. 103-66, §13603(c)(1), struck out "; and (XI)" and substituted ",(XI)".

[14] P.L. 103-66, §13603(c)(2), struck out "individuals, and (XI)" and substituted "individuals, (XII)".

[15] P.L. 103-66, §13603(c)(3), inserted ", and" and (XIII), applicable to medical assistance furnished on or after January 1, 1994, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

[16] P.L. 103-66, §13631(f)(1)(A)(i), struck out "effective July 1, 1969,". For the effective date, see P.L. 103-66,§13631(f)(3), in Appendix B.

[17] P.L. 103-66, §13621(f)(1)(A)(ii), struck out "and".

[18] P.L. 103-66, §13631(f)(1)(A)(iii), struck out "to him under section 1903" and substituted "to the individual under section 1903, and (iii) providing for coordination of information and education on pediatric vaccinations and delivery of immunization services". For the effective date, see P.L. 103-66, §13631(f)(3), in Appendix B.

[19] P.L. 103-66, §13631(f)(1)(B), inserted ", including the provision of information and education on pediatric vaccinations and the delivery of immunization services,". For the effective date, see P.L. 103-66, §13631(f)(3), in Appendix B.

[20] P.L. 89-642.

[21] See Vol. II, P.L. 100-203, §4211(b)(2), [as amended by P.L. 101-508,§4801(e)(1)(B)], with respect to details in plan amendment.

[22] P.L. 100-203, §4211(h)(2)(D)(i) [as amended by P.L. 100-360, §411(l)(3)(H)(ii)], struck out "skilled nursing facility or intermediate care facility" and substituted "nursing facility or intermediate care facility for the mentally retarded". For the effective date, see Vol. II, P.L. 100-203, §4214.

[23] P.L. 100-203, §4211(h)(2)(D)(ii) [as amended by P.L. 100-360, §411(l)(3)(H)(iii) and P.L. 100-485, §608(d)(27)(G)], struck out "skilled nursing facility services or intermediate care facility services" and substituted "nursing facility services or services in an intermediate care facility for the mentally retarded". For the effective date, see Vol. II, P.L. 100-203, §4214.

[24] P.L. 101-239, §6404(c), struck out "section 1905(a)(2)(B) provided by a rural health clinic" and substituted "clause (B) or (C) of section 1905(a)(2)". For the effective date, see Vol. II, P.L. 101-239, §6404(d).

[25] P.L. 101-239, §6402(c)(2), inserted ", and for payment for services described in section 1905(a)(2)(C) under the plan,", and §6402(d)(2) read as follows:

"(2)(A) The amendments made by subsection (c) apply (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

"(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsection (c), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.".

P.L. 101-508, §4704(e), in effect, struck out ", and for payment for services described in section 1905(a)(2)(C) under the plan,", effective December 19, 1989, and revised and redesignated P.L. 101-239, §6402(d).

[26] P.L. 101-508, §4711(c)(1)(A)(iii), added subparagraph (F), applicable to home and community care furnished on or after July 1, 1991, or, if later, 30 days after the date of

publication of interim regulations under §1929(k)(1).

[27] P.L. 100-360, §301(e)(2)(C) [as added by P.L. 100-485, §608(d)(14)(I)(iii); struck out paragraph (15), effective July 1, 1989. [For paragraph (15) as it formerly read, see Vol. III, P.L. 100-360.]

[28] See Vol. II, P.L. 101-508, §11115(c), with respect to exclusions under title XIX.

[29] P.L. 103-66, §13611(d)(1)(A), struck out "and transfers of assets" and substituted ", transfers of assets, and treatment of certain trusts". For the effective date, see P.L. 103-66, §13611(e), in Appendix B.

[30] P.L. 103-66, §13622(a)(1), struck out "insurers)" and substituted "insurers, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), service benefit plans, and health maintenance organizations)". For the effective date, see P.L. 103-66, §13622(d), in Appendix B.

[31] P.L. 103-66, §13581(b)(2), struck out "(as specified" and substituted "(including the use of information collected by the Medicare and Medicaid Coverage Data Bank under section 1144 and any additional measures as specified", effective on January 1, 1994.

[32] P.L. 103-66, §13622(b)(1), struck out "and".

[33] P.L. 103-66, §13622(b)(2), added "and". P.L. 103-66, §13622(c)(1), struck out "and".

[34] P.L. 103-66, §13622(b)(3), added subparagraph (H). For the effective date, see P.L. 103-66, §13622(d), in Appendix B. P.L. 103-66, §13622(c)(2), added "and".

[35] P.L. 103-66, §13622(c)(3), added subparagraph (I). For the effective date, see P.L. 103-66, §13622(d), in Appendix B.

[36] P.L. 101-508, §4801(e)(11)(A), repealed paragraph (29), effective on the date on which the Secretary promulgates standards regarding the qualifications of nursing facility administrators under §1919(f)(4).

[37] P.L. 100-203, §4212(d)(2)(A), struck out "skilled nursing facility services (and with respect to intermediate care facility services, where" and substituted "services in an intermediate care facility for the mentally retarded (where". This amendment shall not apply to a State until such date (not earlier than October 1, 1990) as the Secretary determines that the State has specified the resident assessment instrument under §1919(e)(5) and begun conducting surveys under §1919(g)(2).

[38] P.L. 100-203, §4212(d)(2)(B), struck out "skilled nursing or intermediate care facility" and substituted "intermediate care facility for the mentally retarded". This amendment shall not apply to a State until such date (not earlier than October 1, 1990) as the Secretary determines that the State has specified the resident assessment instrument under §1919(e)(5) and begun conducting surveys under §1919(g)(2).

[39] See Vol. II, P.L. 88-164, §107(a)(4), with respect to cited discrepancies.

[40] P.L. 103-66, §13631(e)(1)(A), struck out "and".

[41] P.L. 103-66, §13631(e)(1)(B), struck out the period and substituted "; and".

[42] P.L. 103-66, §13631(e)(1)(C), added subparagraph (D), effective August 10, 1993.

[43] P.L. 100-203, §4212(d)(3), inserted ", except as provided in section 1919(d),". This amendment shall not apply to a State until such date (not earlier than October 1, 1990) as the Secretary determines that the State has specified the resident assessment instrument under §1919(e)(5) and begun conducting surveys under §1919(g)(2).

P.L. 100-360, §411(l)(6)(C), struck out "1919(d)" and substituted "1919(g)", effective as if included in the enactment of P.L. 100-203.

[44] See Vol. II, P.L. 78-410, §1318, with respect to disclosure of financial information required to be supplied under this paragraph.

[45] P.L. 103-66, §13631(f)(1)(C), inserted "and the need for age-appropriate immunizations against vaccine-preventable diseases". For the effective date, see P.L. 103-66, §13631(f)(3), in Appendix B.

[46] P.L. 100-203, §4212(e)(1)(B) [as amended by P.L. 100-360, §411(l)(6)(D)], struck out "intermediate care facility services provided in an institution" and substituted "services provided in an intermediate care facility". For the effective date, see Vol. II, P.L. 100-203, §4214.

[47] P.L. 103-66, §13611(d)(1)(B)(i), struck out "(A)".

[48] P.L. 103-66, §13611(d)(1)(B)(ii), struck out ", and (B) meet the requirement of section 1917(c) (relating to transfer of assets)". For the effective date, see P.L. 103-66, §13611(e), in Appendix B.

[49] P.L. 103-66, §13602(c), amended paragraph (54) in its entirety. For the effective date, see P.L. 103-66, §13602(d), in Appendix B. For paragraph (54) as it formerly read, see Superseded Provisions.

P.L. 103-66, §13623(a)(1), struck out "and".

[50] Probably should be "1905(i)(2)(B)".

[51] P.L. P.L. 103-66, §13623(a)(2), struck out the period and substituted a semicolon.

[52] P.L. 103-66, §13623(a)(3), redesignated paragraph (55) inserted by P.L. 101-508,§4604(b)(3), as paragraph (56), transferred it after paragraph (55) inserted by §4602(a)(3), and struck out the period at the end and substituted a semicolon. For the effective date, see P.L. 103-66, §13623(c), in Appendix B.

See Vol. II, P.L. 101-508, §4604(d)(2), with respect to a State plan which the Secretary determines requires State legislation.

[53] P.L. 103-66, §13623(a)(4), transferred paragraph (57) immediately after paragraph (56).

[54] P.L. 103-66, §13623(a)(4), transferred paragraph (58) added by P.L. 101-508, §4751(a)(1)(C), immediately after paragraph (57). P.L. 103-66, §13623(a)(5), struck out the period and substituted a semicolon.

[55] P.L. 103-66, §13623(a)(6), redesignated paragraph (58) added by P.L. 101-508, §4752(c)(1)(C), as paragraph (59), and inserted it after paragraph (58) added by P.L. 101-508, §4751(a)(1)(C).

[56] P.L. 103-66, §13623(a)(6), struck out a period and substituted "; and". P.L. 103-66, §13625(a)(1), struck out "and".

[57] P.L. 103-66, §13623(a)(7), added paragraph (60). For the effective date, see P.L. 103-66, §13623(c), in Appendix B. P.L. 103-66, §13625(a)(2), struck out the period and substituted "; and". P.L. 103-66 §13631(a)(1), struck out "and".

[58] P.L. 103-66, §13625(a)(3), added paragraph (61), effective January 1, 1995, and the standards referred to in section 1902(a)(61) shall be established not later than March 31, 1994. P.L. 103-66, §13631(a)(2), struck out a period and substituted "; and".

[59] P.L. 103-66, §13631(a)(3), added paragraph (62), applicable to payments under State plans approved under title XIX for calendar quarters beginning on or after October 1, 1994.

[60] As in original. Possibly should be "subparagraph".

[61] See Vol. II, 31 U.S.C. 3803(c)(2)(C), with respect to benefits not affected by P.L. 100-383.

See Vol. II, P.L. 100-383, §§105(f)(2) and 206(d)(2), with respect to exclusion from income and resources of certain payments to certain individuals.

See Vol. II, P.L. 100-407, §105(c), with respect to the effect of financial assistance under that Act.

See Vol. II, P.L. 100-409, §5, with respect to the effect of this Act on P.L. 92-203 or P.L. 96-487.

See Vol. II, P.L. 100-411, §2(d)(3)(B), with respect to the effect of per capita payments.

[62] P.L. 78-410.

[63] See Vol. II, P.L. 100-203, §4113(d), with respect to continued eligibility and restriction on disenrollment without cause for metropolitan health plan HMO's.

[64] See P.L. 102-234, §3(e)(2), with respect to the proposed rule promulgated by the Secretary. [Appendix B]

[65] P.L. 101-508, §4711(c)(1)(B), inserted "or to limit the amount of payment that may be made under a plan under this title for home and community care", applicable to home and community care furnished on or after July 1, 1991, or, if later, 30 days after the date of publication of interim regulations under §1929(k)(1).

[66] As in original. Should be "an".

[67] P.L. 100-203, §4213(b)(1)(A) [as amended by P.L. 100-360, §411(l)(8)(C)], struck out "skilled nursing facility or intermediate care facility" and substituted "intermediate care facility for the mentally retarded". For the effective date, see Vol. II, P.L. 100-203, §4214.

[68] P.L. 100-203, §4213(b)(1)(B) [as amended by P.L. 100-360, §411(l)(8)(C)], struck out "provisions of section 1861(j) or section 1905(c), respectively," and substituted "requirements for such a facility under this title". For the effective date, see Vol. II, P.L. 100-203, §4214.

[69] P.L. 100-203, §4213(b)(1)(C) [as amended by P.L. 100-360, §411(l)(8)(C)], struck out "provisions of section 1861(j) or section 1905(c) (as the case may be)" and substituted "requirements for such a facility under this title". For the effective date, see Vol. II, P.L. 100-203, §4214.

[70] P.L. 100-203, §4213(b)(1)(C) [as amended by P.L. 100-360, §411(l)(8)(C)], struck out "provisions of section 1861(j) or section 1905(c) (as the case may be)" and substituted "requirements for such a facility under this title". For the effective date, see Vol. II, P.L. 100-203, §4214.

[71] P.L. 103-66, §13601(b)(2), struck out "(22)" and substituted "(25)", effective with respect to personal care services provided on or after October 1, 1994.

[72] P.L. 103-66, §13611(d)(1)(C), struck out subsection (k). For the effective date, see P.L. 103-66, §13611(e), in Appendix B. For subsection (k) as it formerly read, see Superseded

Provisions.

[73] P.L. 101-508, §4601(a)(1)(C)(i), inserted "children". For the effective date, see Vol. II, P.L. 101-508, §4601(b). As in original.

[74] P.L. 101-508, §4601(a)(1)(C)(ii), amended subparagraph (D in its entirety. For the effective date, see Vol. II, P.L. 101-508, §4601(b). Until then, subparagraph (D) reads as follows:

"(D) at the option of the State, children born after September 30, 1983, who have attained 6 years of age but have not attained 7 or 8 years of age (as selected by the State).".

[75] See Vol. II, P.L. 100-360, §302(f)(3), with respect to delay for State legislation.

[76] See Vol. II, P.L. 101-508, §4607(a), with respect to the Secretary's report on State error rates.

[77] P.L. 97-35.

[78] July 1, 1988.

[79] P.L. 100-360, §302(a)(2)(B)(iii), added this clause. For the effective date, see Vol. II, P.L. 100-360, §302(f).

[80] December 19, 1989, P.L. 101-239, 103 Stat. 2106., has established under clause (i), or has enacted legislation.

[81] P.L. 101-239, §6401(a)(4)(B), added clause (iv). For the effective date, see Vol. II, P.L. 101-239, §6401(c).

[82] P.L. 101-239, §6401(a)(6), added this subparagraph (B). For the effective date, see Vol. II, P.L. 101-239, §6401(c).

[83] P.L. 101-508, §4601(a)(1)(C)(iii), amended subparagraph (C) in its entirety. For the effective date, see Vol. II, P.L. 101-508, §4601(b). Until then, subparagraph (C) reads as follows:

"(C)*If a State elects, under subsection (a)(10)(A)(ii)(IX), to cover individuals not described in subparagraph (A) or (B) of paragraph (1), for purposes of that paragraph and with respect to individuals not described in such subparagraphs the State shall establish an income level which is a percentage (not more than 100 percent**) of the income official poverty line described in subparagraph (A).".

*P.L. 101-239, §6401(a)(5)(B), redesignated subparagraph (B) as subparagraph (C).

**P.L. 101-239, §6401(a)(5)(A), struck out ", or, if less, the percentage established under subparagraph (A)". For the effective date, see Vol. II, P.L. 101-239, §6401(c).

[84] P.L. 101-508, §4601(a)(1)(C)(iv), inserted ", (a)(10)(A)(i)(VII),". For the effective date, see Vol. II, P.L. 101-508, §4601(b). As in original. One comma should be deleted.

[85] P.L. 101-239, §6401(a)(6)(sic)(A), inserted ", (a)(10)(A)(i)(VI),". For the effective date, see Vol. II, P.L. 101-239, §6401(c).

[86] P.L. 100-360, §302(e)(3)(B), inserted "(a)(10)(A)(i)(IV) or". For the effective date, see Vol. II, P.L. 100-360, §302(f).

[87] P.L. 101-239, §6401(a)(6)(sic)(B), struck out "or (C)" and substituted ", (C), or (D)". For the effective date, see Vol. II, P.L. 101-239, §6401(c).

[88] P.L. 101-239, §6401(a)(7)(A), inserted "and for children described in subsection (a)(10)(A)(i)(VI)". For the effective date, see Vol. II, P.L. 101-239, §6401(c).

[89] P.L. 101-508, §4601(a)(1)(C)(v), inserted "or subsection (a)(10)(A)(i)(VII)". For the effective date, see Vol. II, P.L. 101-508, §4601(b).

[90] As in original. No punctuation.

[91] P.L. 101-239, §6401(a)(7)(B), inserted "or (a)(10)(A)(i)(VI)". For the effective date, see Vol. II, P.L. 101-239, §6401(c).

P.L. 101-508, §4601(a)(1)(C)(vi), struck out "or (a)(10)(A)(i)(VI)" and substituted "(a)(10)(A)(i)(VI), or (a)(10)(A)(i)(VII)". For the effective date, see Vol. II, P.L. 101-508, §4601(b).

[92] P.L. 100-360, §302(c)(2), struck out the former paragraph (4) and §302(d), added this paragraph (4). For the effective date, see Vol. II, P.L. 100-360, §302(f). [For paragraph (4) as it formerly read, see Vol. III, P.L. 100-360.]

[93] P.L. 97-35.

[94] As in original. No punctuation.

[95] P.L. 101-239, §6401(a)(9), inserted "(a)(10)(A)(i)(VI),". For the effective date, see Vol. II, P.L. 101-239, §6401(c).

[96] P.L. 101-508, §4601(a)(1)(D), inserted "(a)(10)(A)(i)(VII),". For the effective date, see Vol. II, P.L. 101-508, §4601(b).

[97] See Vol. II, P.L. 101-508, §4604(d)(2), with respect to a State plan which the Secretary determines requires State legislation.

[98] No paragraph (2) enacted.

[99] P.L. 101-508, §4752(a)(1)(B), provides that the system established under this subsection

may be the same as, or different from, the system established under P.L. 99-272, §9202(g).

See Vol. II, P.L. 101-508, §4752(d), with respect to foreign medical graduate certification.

[100] P.L. 103-66, §13603(b), added subsection (z), applicable to medical assistance furnished on or after January 1, 1994, without regard to whether or not final regulations to carry out this amendment have been promulgated by such date.

[101] See Vol. II, P.L. 102-234, "Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991", §5, with respect to interim final regulations.

[102] See Vol. II, P.L. 102-234, §3(e)(2), with respect to the proposed rule promulgated by the Secretary on October 31, 1991.

[103] P.L. 101-508, §4402(d)(3), struck out "(including expenditures for medicare cost-sharing and including expenditures for premiums under part B of title XVIII, for individuals who are eligible for medical assistance under the plan and (A) are receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or (B) with respect to whom there is being paid a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A), and, except in the case of individuals sixty-five years of age or older and disabled individuals entitled to hospital insurance benefits under title XVIII who are not enrolled under part B of title XVIII, other insurance premiums for medical or any other type of remedial care or the cost thereof)". For the effective date, see Vol. II, P.L. 101-508, §4402(e).

[104] P.L. 100-203, §4212(e)(2), inserted "subject to section 1919(g)(3)(B),". For the effective date, see Vol. II, P.L. 100-203, §4214.

[105] See Vol. II, P.L. 100-203, §4212(c)(3), with respect to proper expenses.

See Vol. II, P.L. 101-239, §6411(g), with respect to day habilitation and related services; and §6901(d)(2), with respect to clarification of Federal matching rate for survey and certification activities.

See Vol. II, P.L. 101-508, §4401(b)(2), with respect to the temporary increase in the Federal match.

[106] P.L. 91-230, Title VI.

[107] See Vol. II, P.L. 100-203, §4106, with respect to medically needy income levels for certain two-member couples in California.

See Vol. II, P.L. 101-508, §4718, with respect to medically needy income levels for certain one-member families.

[108] As in original. One period should be deleted.

[109] P.L. 101-508, §4601(a)(3)(A)(i), struck out "1902(a)(10)(A)(i)(IV)," and substituted "1902(a)(10)(A)(i)(III), 1902(a)(10)(A)(i)(IV), 1902(a)(10)(A)(i)(V),". For the effective date, see Vol. II, P.L. 101-508, §4601(b).

[110] P.L. 101-239, §6401(b), inserted "1902(a)(10)(A)(i)(VI),". For the effective date, see Vol. II, P.L. 101-239, §6401(c).

[111] P.L. 101-508, §4601(a)(3)(A)(ii), inserted "1902(a)(10)(A)(i)(VII),". For the effective date, see Vol. II, P.L. 101-508, §4601(b).

[112] P.L. 78-410.

[113] P.L. 100-203, §4212(d)(1)(A)(i), struck out "intermediate care facility services" and substituted "services in an intermediate care facility for the mentally retarded". This amendment shall not apply to a State until such date (not earlier than October 1, 1990) as the Secretary determines that the State has specified the resident assessment instrument under §1919(e)(5) and begun conducting surveys under §1919(g)(2).

[114] P.L. 100-203, §4212(d)(1)(A)(ii), struck out ", skilled nursing facility services for 30 days,". This amendment shall not apply to a State until such date (not earlier than October 1, 1990) as the Secretary determines that the State has specified the resident assessment instrument under §1919(e)(5) and begun conducting surveys under §1919(g)(2).

[115] P.L. 100-203, §4212(d)(1)(A)(iii), struck out ", skilled nursing facility services, or intermediate care facility services" and substituted "or services in an intermediate care facility for the mentally retarded". This amendment shall not apply to a State until such date (not earlier than October 1, 1990) as the Secretary determines that the State has specified the resident assessment instrument under §1919(e)(5) and begun conducting surveys under §1919(g)(2).

[116] P.L. 100-203, §4212(d)(1)(A)(iv), struck out ", skilled nursing facilities, and intermediate care facilities" and substituted "and intermediate care facilities for the mentally retarded". This amendment shall not apply to a State until such date (not earlier than October 1, 1990) as the Secretary determines that the State has specified the resident assessment instrument under §1919(e)(5) and begun conducting surveys under §1919(g)(2).

[117] P.L. 100-203. §4212(d)(1)(B). struck out ". skilled nursing facilities. and intermediate care facilities" and substituted "and intermediate care facilities for the mentally retarded". This amendment shall not apply to a State until such date (not earlier than October 1. 1990) as the Secretary determines that the State has specified the resident assessment instrument under §1919(e)(5) and begun conducting surveys under §1919(g)(2).

[118] P.L. 100-203. §4212(d)(1)(C)(i). struck out subparagraph (B) and §4212(d)(1)(C)(iii) redesignated subparagraph (C) as subparagraph (B). This amendment shall not apply to a State until such date (not earlier than October 1. 1990) as the Secretary determines that the State has specified the resident assessment instrument under §1919(e)(5) and begun conducting surveys under §1919(g)(2).

[119] P.L. 100-203. §4212(d)(1)(C)(ii). struck out "intermediate care facility services" and substituted "services in an intermediate care facility for the mentally retarded". This amendment shall not apply to a State until such date (not earlier than October 1. 1990) as the Secretary determines that the State has specified the resident assessment instrument under §1919(e)(5) and begun conducting surveys under §1919(g)(2).

[120] P.L. 100-203. §4212(d)(1)(D). struck out paragraph (7). This amendment shall not apply to a State until such date (not earlier than October 1. 1990) as the Secretary determines that the State has specified the resident assessment instrument under §1919(e)(5) and begun conducting surveys under §1919(g)(2).

[121] P.L. 100-203. §4211(g)(1). struck out subsection (h). For the effective date. see Vol. II. P.L. 100-203. §4214.

[122] P.L. 103-66. §13602(b). amended paragraph (10) in its entirety. effective as if included in P.L. 101-508. Paragraph (10) formerly read as follows:

"(10) with respect to covered outpatient drugs of a manufacturer dispensed in any State unless. (A) except as provided in section 1927(a)(3). the manufacturer complies with the rebate requirements of section 1927(a) with respect to the drugs so dispensed in all States. and (B) effective January 1. 1993. the State provides for drug use review in accordance with section 1927(g): or".

P.L. 103-66. §13631(c)(1). amended paragraph (10) "inserted by section 4401(a)(1)(B) of OBRA-1990." by striking "; or" and inserting a semicolon.

[123] P.L. 103-66. §13631(c)(2). redesignated paragraph (12) as paragraph (11). transferred and inserted it after paragraph (10). and struck out a period and substituted a semicolon. effective August 10. 1993.

[124] P.L. 103-66. §13631(c)(3). redesignated paragraph (14) as paragraph (12). and transferred and inserted it after paragraph (11). and struck out the period at the end and substituted a semicolon. effective August 10. 1993.

[125] P.L. 103-66. §13631(h)(1)(B). amended paragraph (14) by striking the period at the end and inserting "; or".

[126] P.L. 103-66. §13631(c)(4). redesignated paragraph (11) as paragraph (13). transferred and inserted it after paragraph (12). "striking the period at the end and inserting "; or"". effective August 10. 1993. Unable to execute instruction in quotes: paragraph (12) ends with "; or".

P.L. 103-66. §13631(h)(1)(A). struck out "or".

[127] P.L. 101-508. §4752(e)(1). struck out a period "at the end of paragraph (13)" and substituted "; or". No paragraph (13) enacted.

P.L. 103-66. §13631(h)(1)(A). amended §1903(i). "in paragraph (13). by striking "or"".

[128] P.L. 103-66. §13631(c)(5). inserted paragraph (14). effective August 10. 1993.

P.L. 103-66. §13631(h)(1)(B). struck out the period and substituted "; or".

[129] P.L. 103-66. §13631(h)(1)(C). inserted paragraph (15). applicable to amounts expended for vaccines administered on or after October 1. 1993. Nothing in paragraph (1) shall be construed as permitting a State to provide services under its plan under this title that are not reasonable in amount. duration. and scope to achieve their purpose.

[130] P.L. 94-552. §1: 90 Stat. 2540.

[131] P.L. 78-410.

[132] See Vol. II. P.L. 102-276. §§1 and 2. (as amended by P.L. 103-66. §13644). with respect to a waiver for certain health maintenance organizations providing services under the Dayton Area Health Plan. Incorporated.

[133] Margin as in original.

[134] P.L. 101-508. §4752(b)(1)(C). added clause (xi). applicable to contract years beginning after the date of the establishment of the system described in §1902(x).

See Vol. II. P.L. 99-272. §9517(c)(2)(C). with respect to the Hartford Health Network. Inc.; and §9517(c)(2)(D). with respect to health maintenance organization laws of a State.

See Vol. II. P.L. 99-272. §9517(c)(2)(A) and (3) [as amended by P.L. 101-508. §4734]. with respect to certain county-operated health insuring organizations.

[135] P.L. 101-508, §4704(b)(2), inserted "except with respect to clause (ix) of subparagraph (A),", effective as if included in the enactment of P.L. 101-239.

[136] P.L. 78-410.

[137] P.L. 89-4; see 40 U.S.C. App. 214, 303.

[138] October 8, 1976 [P.L. 94-460; 90 Stat. 1945, at 1959].

[139] P.L. 78-410.

[140] One "or" should be deleted.

[141] See Vol. II, P.L. 100-203, §4113(d), with respect to continued eligibility and restriction on disenrollment without cause for metropolitan health plan HMO's.

[142] P.L. 89-4; see 40 U.S.C. App. 214, 303.

[143] P.L. 78-410.

[144] P.L. 100-93, §8(h)(1); 101 Stat. 694.

[145] As in original. Probably should read "1974)".

[146] P.L. 103-66, §13622(a)(2), struck out "regulation)" and substituted "regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974)), a service benefit plan, and a health maintenance organization)", applicable to items and services furnished on or after October 1, 1993.

[147] October 7, 1980 [P.L. 96-398; 94 Stat. 1564, 1610].

[148] P.L. 103-66, §13624(a), added subsection (s), applicable to referrals made on or after December 31, 1994.

[149] P.L. 97-35, §2161(c)(2); 95 Stat.

[150] P.L. 101-508, §4402(b), inserted "or with respect to payments made in violation of section 1906", at the end of "Section 1903(u)(1)(C)(iv)". For the effective date, see Vol. II, P.L. 101-508, §4402(e). Executed as if §4402(b) read "Section 1903(u)(1)(D)(iv)".

[151] See Vol. II, P.L. 100-203, §4118(n), with respect to the temporary definition of technical error.

[152] See Vol. II, P.L. 100-485, §608(h), with respect to the quality control transition.

See Vol. II, P.L. 101-508, §4607(b), with respect to the transition on errors in eligibility determinations.

[153] P.L. 103-66, §13604(a)(1), struck out "and".

[154] P.L. 103-66, §13604(a)(2), struck out the period and substituted ", and".

[155] P.L. 103-66, §13604(a)(3), added subparagraph (C). For the effective date, see P.L. 103-66, §13604(b), in Appendix B.

[156] As in original.

[157] See Vol. II, P.L.102-234, §2(c)(2), with respect to expenditures prior to the effective date specified in section 1903(w)(1)(F); and §2(c)(3), with respect to the interim final rule promulgated by the Secretary on October 31,1991.

DEFINITIONS[1]

SEC. 1905. [42 U.S.C. 1396d] For purposes of this title—

(a) The term "medical assistance" means payment of part or all of the cost of the following care and services (if provided in or after the third month before the month in which the recipient makes application for assistance or, in the case of medicare, cost-sharing with respect to a qualified medicare beneficiary described in subsection (p)(1), if provided after the month in which the individual becomes such a beneficiary) for individuals, and, with respect to physicians' or dentists' services, at the option of the State, to individuals (other than individuals with respect to whom there is being paid, or who are eligible, or would be eligible if they were not in a medical institution, to have paid with respect to them a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A)) not receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, and with respect to whom supplemental security income benefits are not being paid under title XVI, who are—

(i) under the age of 21, or, at the option of the State, under the age of 20, 19, or 18 as the State may choose,

(ii) relatives specified in section 406(b)(1) with whom a child is living if such child is (or would, if needy, be) a dependent child under part A of title IV,

(iii) 65 years of age or older,

(iv) blind, with respect to States eligible to participate in the State plan program established under title XVI,

(v) 18 years of age or older and permanently and totally disabled, with respect to States eligible to participate in the State plan program established under title XVI,

(vi) persons essential (as described in the second sentence of this subsection) to individuals receiving aid or assistance under State plans approved under title I, X, XIV, or XVI,

(vii) blind or disabled as defined in section 1614, with respect to States not eligible to participate in the State plan program established under title XVI,

(viii) pregnant women,

(ix) individuals provided extended benefits under section 1925,[2]

(x) individuals described in section 1902(u)(1), or[3]

(xi) individuals described in section 1902(z)(1),[4]

but whose income and resources are insufficient to meet all of such cost—

(1) inpatient hospital services (other than services in an institution for mental diseases);

(2)(A) outpatient hospital services, (B) consistent with State law permitting such services, rural health clinic services (as defined in subsection (l)(1)[5]) and any other ambulatory services which are offered by a rural health clinic (as defined in subsection (l)(1)[6]) and which are otherwise included in the plan[7], and (C) Federally-qualified health center services (as defined in subsection (l)(2)) and any other ambulatory services offered by a Federally-qualified health center and which are otherwise included in the plan[8];

(3) other laboratory and X-ray services;

(4)(A)[9] nursing facility services (other than services in an institution for mental diseases) for individuals 21 years of age or older; (B) early and periodic screening, diagnostic, and treatment services (as defined in subsection (r)) for individuals who are eligible under the plan and are under the age of 21; and (C) family planning services and supplies furnished (directly or under arrangements with others) to individuals of child-bearing age (including minors who can be considered to be sexually active) who are eligible under the State plan and who desire such services and supplies;

(5)(A) physicians' services furnished by a physician (as defined in section 1861(r)(1)), whether furnished in the office, the patient's home, a hospital, or a[10] nursing facility, or elsewhere, and (B) medical and surgical services furnished by a dentist (described in section 1861(r)(2)) to the extent such services may be performed under State law either by a doctor of medicine or by a doctor of dental surgery or dental medicine and would be described in clause (A) if furnished by a physician (as defined in section 1861(r)(1));

(6) medical care, or any other type of remedial care recognized under State law, furnished by licensed practitioners within the scope of their practice as defined by State law;

(7) home health care services[11];

(8) private duty nursing services;

(9) clinic services furnished by or under the direction of a physician, without regard to whether the clinic itself is administered by a physician, including such services furnished outside the clinic by clinic personnel to an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address;

(10) dental services;

(11) physical therapy and related services;

(12) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select;

(13) other diagnostic, screening, preventive, and rehabilitative services, including any medical or remedial services (provided in a facility, a home, or other setting) recommended by a physician or other licensed practitioner of the healing arts within the scope of their practice under State law, for the maximum reduction of physical or mental

disability and restoration of an individual to the best possible functional level;

(14) inpatient hospital services and nursing facility services for individuals 65 years of age or over in an institution for mental diseases;

(15) services in an intermediate care facility for the mentally retarded (other than in an institution for mental diseases) for individuals who are determined, in accordance with section 1902(a)(31)(A), to be in need of such care;

(16) effective January 1, 1973, inpatient psychiatric hospital services for individuals under age 21, as defined in subsection (h);

(17) services furnished by a nurse-midwife (as defined in section 1861(gg)) which the nurse-midwife is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not the nurse-midwife is under the supervision of, or associated with, a physician or other health care provider, and without regard to whether or not the services are performed in the area of management of the care of mothers and babies throughout the maternity cycle[12];

(18) hospice care (as defined in subsection (o));

(19) case management services (as defined in section 1915(g)(2)) and TB-related services described in section 1902(z)(2)(F);[13]

(20) respiratory care services (as defined in section 1902(e)(9)(C));

(21) services furnished by a certified pediatric nurse practitioner or certified family nurse practitioner (as defined by the Secretary) which the certified pediatric nurse practitioner or certified family nurse practitioner is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not the certified pediatric nurse practitioner or certified family nurse practitioner is under the supervision of, or associated with, a physician or other health care provider;[14]

(22)[15] home and community care (to the extent allowed and as defined in section 1929) for functionally disabled elderly individuals;

(23)[16] community supported living arrangements services (to the extent allowed and as defined in section 1930);[17]

(24) personal care services furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for the mentally retarded, or institution for mental disease that are (A) authorized for the individual by a physician in accordance with a plan of treatment or (at the option of the State) otherwise authorized for the individual in accordance with a service plan approved by the State, (B) provided by an individual who is qualified to

provide such services and who is not a member of the individual's family, and (C) furnished in a home or other location; and[18]

(25)[19] any other medical care, and any other type of remedial care recognized under State law, specified by the Secretary,[20]

except as otherwise provided in paragraph (16), such term does not include—

(A) any such payments with respect to care or services for any individual who is an inmate of a public institution (except as a patient in a medical institution); or

(B) any such payments with respect to care or services for any individual who has not attained 65 years of age and who is a patient in an institution for mental diseases.

For purposes of clause (vi) of the preceding sentence, person shall be considered essential to another individual if such person is the spouse of and is living with such individual, the needs of such person are taken into account in determining the amount of aid or assistance furnished to such individual (under a State plan approved under title I, X, XIV, or XVI), and such person is determined, under such a State plan, to be essential to the well-being of such individual. The payment described in the first sentence may include expenditures for medicare cost-sharing and for premiums under part B of title XVIII for individuals who are eligible for medical assistance under the plan and (A) are receiving aid or assistance under any plan of the State approved under title I, X, XIV, or XVI, or part A of title IV, or with respect to whom supplemental security income benefits are being paid under title XVI, or (B) with respect to whom there is being paid a State supplementary payment and are eligible for medical assistance equal in amount, duration, and scope to the medical assistance made available to individuals described in section 1902(a)(10)(A), and, except in the case of individuals 65 years of age or older and disabled individuals entitled to health insurance benefits under title XVIII who are not enrolled under part B of title XVIII, other insurance premiums for medical or any other type of remedial care or the cost thereof. No service (including counseling) shall be excluded from the definition of "medical assistance" solely because it is provided as a treatment service for alcoholism or drug dependency.

(b) The term "Federal medical assistance percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that (1) the Federal medical assistance percentage shall in no case be less than 50 per centum or more than 83 per centum, and (2) the Federal medical assistance percentage for Puerto Rico, the

Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa shall be 50 per centum. The Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of section 1101(a)(8)(B). Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 per centum with respect to amounts expended as medical assistance for services which are received through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act[21]).

(c) For definition of the term "nursing facility", see section 1919(a).[22]

(d) The term "intermediate care facility for the mentally retarded[23]" means an[24] institution (or distinct part thereof) for the mentally retarded or persons with related conditions if—

(1) the primary purpose of such institution (or distinct part thereof) is to provide health or rehabilitative services for mentally retarded individuals and the institution meets such standards as may be prescribed by the Secretary;

(2) the mentally retarded individual with respect to whom a request for payment is made under a plan approved under this title is receiving active treatment under such a program; and

(3) in the case of a public institution,[25] the State or political subdivision responsible for the operation of such institution has agreed that the non-Federal expenditures in any calendar quarter prior to January 1, 1975, with respect to services furnished to patients in such institution (or distinct part thereof) in the State will not, because of payments made under this title, be reduced below the average amount expended for such services in such institution in the four quarters immediately preceding the quarter in which the State in which such institution is located elected to make such services available under its plan approved under this title.

(e) In the case of any State the State plan of which (as approved under this title)—

(1) does not provide for the payment of services (other than services covered under section 1902(a)(12)) provided by an optometrist; but

(2) at a prior period did provide for the payment of services referred to in paragraph (1);

the term "physicians' services" (as used in subsection (a)(5)) shall include services of the type which an optometrist is legally authorized to perform where the State plan specifically provides that the term "physicians' services", as employed in such plan, includes services of the type which an optometrist is legally authorized to perform, and shall be reimbursed whether furnished by a physician or an optometrist.

(f) For purposes of this title, the term "[26] nursing facility services" means services which are or were required to be given an individual who needs or needed on a daily basis[27] nursing care (provided directly by or requiring the supervision of[28] nursing personnel) or other[29] rehabilitation services which as a practical matter can only be provided in a[30] nursing facility on an inpatient basis.

(g) If the State plan includes provision of chiropractors' services, such services include only—

(1) services provided by a chiropractor (A) who is licensed as such by the State and (B) who meets uniform minimum standards promulgated by the Secretary under section 1861(r)(5); and

(2) services which consist of treatment by means of manual manipulation of the spine which the chiropractor is legally authorized to perform by the State.

(h)(1) For purposes of paragraph (16) of subsection (a), the term "inpatient psychiatric hospital services for individuals under age 21" includes only—

(A) inpatient services which are provided in an institution (or distinct part thereof) which is a psychiatric hospital as defined in section 1861(f) or in another inpatient setting that the Secretary has specified in regulations;

(B) inpatient services which, in the case of any individual (i) involve active treatment which meets such standards as may be prescribed in regulations by the Secretary, and (ii) a team, consisting of physicians and other personnel qualified to make determinations with respect to mental health conditions and the treatment thereof, has determined are necessary on an inpatient basis and can reasonably be expected to improve the condition, by reason of which such services are necessary, to the extent that eventually such services will no longer be necessary; and

(C) inpatient services which, in the case of any individual, are provided prior to (i) the date such individual attains age 21, or (ii) in the case of an individual who was receiving such services in the period immediately preceding the date on which he attained age 21, (I) the date such individual no longer requires such services, or (II) if earlier, the date such individual attains age 22;

(2) Such term does not include services provided during any calendar quarter under the State plan of any State if the total amount of the funds expended, during such quarter, by the State (and the political subdivisions thereof) from non-Federal funds for inpatient services included under paragraph (1), and for active psychiatric care and treatment provided on an outpatient basis for eligible mentally ill children, is less than the average quarterly amount of the funds expended, during the 4-quarter period ending December 31, 1971, by the State (and the political subdivisions thereof) from non-Federal funds for such services.

(i) The term "institution for mental diseases" means a hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services.

(j) The term "State supplementary payment" means any cash payment made by a State on a regular basis to an individual who is receiving supplemental security income benefits under title XVI or who would but for his income be eligible to receive such benefits, as assistance based on need in supplementation of such benefits (as determined by the Commissioner of Social Security[31]), but only to the extent that such payments are made with respect to an individual with respect to whom supplemental security income benefits are payable under title XVI, or would but for his income be payable under that title.

(k) Increased supplemental security income benefits payable pursuant to section 211 of Public Law 93-66 shall not be considered supplemental security income benefits payable under title XVI.

(l)(1) The terms "rural health clinic services" and "rural health clinic" have the meanings given such terms in section 1861(aa), except that (A) clause (ii) of section 1861(aa)(2) shall not apply to such terms, and (B) the physician arrangement required under section 1861(aa)(2)(B) shall only apply with respect to rural health clinic services and, with respect to other ambulatory care services, the physician arrangement required shall be only such as may be required under the State plan for those services.

(2)(A) The term "Federally-qualified health center services" means services of the type described in subparagraphs (A) through (C) of section 1861(aa)(1) when furnished to an individual as an patient[32] of a Federally-qualified health center and, for this purpose, any reference to a rural health clinic or a physician described in section 1861(aa)(2)(B) is deemed a reference to a Federally-qualified health center or a physician at the center, respectively.

(B) The term "Federally-qualified health center" means a entity[33] which—

(i) is receiving a grant under section 329, 330, 340, or 340A[34] of the Public Health Service Act[35,36]

(ii)(I) is receiving funding from such a grant under a contract with the recipient of such a grant, and

(II) meets the requirements to receive a grant under section 329, 330, 340, or 340A[37] of such Act,[38]

(iii) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, is determined by the Secretary to meet the requirements for receiving such a grant, or[39]

(iv) was treated by the Secretary, for purposes of part B of title XVIII, as a comprehensive Federally funded health center as of January 1, 1990;[40]

and includes an outpatient health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (Public Law 93-638) or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act for the provision of primary health services[41]. In applying clause (ii), the Secretary may waive any requirement referred to in such clause for up to 2 years for good cause shown.

(m)(1) Subject to paragraph (2), the term "qualified family member" means an individual (other than a qualified pregnant woman or child, as defined in subsection (n)) who is a member of a family that would be receiving aid under the State plan under part A of title IV pursuant to section 407 if the State had not exercised the option under section 407(b)(2)(B)(i).

(2) No individual shall be a qualified family member for any period after September 30, 1998.

(n) The term "qualified pregnant woman or child" means—

(1) a pregnant woman who—

(A) would be eligible for aid to families with dependent children under part A of title IV (or would be eligible for such aid if coverage under the State plan under part A of title IV included aid to families with dependent children of unemployed parents pursuant to section 407) if her child had been born and was living with her in the month such aid would be paid, and such pregnancy has been medically verified;

(B) is a member of a family which would be eligible for aid under the State plan under part A of title IV pursuant to section 407 if the plan required the payment of aid pursuant to such section; or

(C) otherwise meets the income and resources requirements of a State plan under part A of title IV; and

(2) a child who has not attained the age of 19[42], who was born after September 30, 1983 (or such earlier date as the State may designate), and who meets the income and resources requirements of the State plan under part A of title IV.

(o)(1)(A) Subject to subparagraph (B), the term "hospice care" means the care described in section 1861(dd)(1) furnished by a hospice program (as defined in section 1861(dd)(2)) to a terminally ill individual who has voluntarily elected (in accordance with paragraph (2)) to have payment made for hospice care instead of having payment made for certain benefits described in section 1812(d)(2)(A) and for which payment may otherwise be made under title XVIII and intermediate care facility services under the plan. For purposes of such election, hospice care may be provided to an individual while such individual is a resident of a skilled nursing facility or intermediate care facility, but the only payment made under the State plan shall be for the hospice care.

(B) For purposes of this title, with respect to the definition of hospice program under section 1861(dd)(2), the Secretary may allow an agency or organization to make the assurance under subparagraph (A)(iii) of such section without taking into account any individual who is afflicted with acquired immune deficiency syndrome (AIDS).

(2) An individual's voluntary election under this subsection —

(A) shall be made in accordance with procedures that are established by the State and that are consistent with the procedures established under section 1812(d)(2);

(B) shall be for such a period or periods (which need not be the same periods described in section 1812(d)(1)) as the State may establish; and

(C) may be revoked at any time without a showing of cause and may be modified so as to change the hospice program with respect to which a previous election was made.

(3) In the case of an individual—

(A) who is residing in a nursing facility or intermediate care facility for the mentally retarded and is receiving medical assistance for services in such facility under the plan,

(B) who is entitled to benefits under part A of title XVIII and has elected, under section 1812(d), to receive hospice care under such part, and

(C) with respect to whom the hospice program under such title and the nursing facility or intermediate care facility for the mentally retarded have entered into a written agreement under which the program takes full responsibility for the professional management of the individual's hospice care and the facility agrees to provide room and board to the individual,

instead of any payment otherwise made under the plan with respect to the facility's services, the State shall provide for payment to the hospice program of an amount equal to the additional amount described in section 1902(a)(13)(D) and, if the individual is an individual described in section 1902(a)(10)(A), shall provide for payment of any coinsurance amounts imposed under section 1813(a)(4).

(p)(1) The term "qualified medicare beneficiary" means an individual—

(A) who is entitled to hospital insurance benefits under part A of title XVIII (including an individual entitled to such benefits pursuant to an enrollment under section 1818, but not including an individual entitled to such benefits only pursuant to an enrollment under section 1818A[43]),

(B) whose income (as determined under section 1612 for purposes of the supplemental security income program, except as provided in paragraph (2)(D)) does not exceed an income level established by the State consistent with paragraph (2), and

(C) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed twice[44] the maximum amount of resources that an individual may have and obtain benefits under that program.

(2)(A) The income level established under paragraph (1)(B) shall be at least the percent provided under subparagraph (B) (but[45] not more than 100 percent) of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981[46]) applicable to a family of the size involved.

(B) Except as provided in subparagraph (C), the percent provided under this clause, with respect to eligibility for medical assistance on or after—

(i) January 1, 1989, is 85 percent,
(ii) January 1, 1990, is 90 percent, and
(iii) January 1, 1991, is 100 percent.

(C) In the case of a State which has elected treatment under section 1902(f) and which, as of January 1, 1987, used an income standard for individuals age 65 or older which was more restrictive than the income standard established under the supplemental security income program under title XVI, the percent provided under subparagraph (B), with respect to eligibility for medical assistance on or after—

(i) January 1, 1989, is 80 percent,
(ii) January 1, 1990, is 85 percent, (iii) January 1, 1991, is 95 percent, and (iv) January 1, 1992, is 100 percent.

(D)(i) In determining under this subsection the income of an individual who is entitled to monthly insurance benefits under title II for a transition month (as defined in clause (ii)) in a year, such income shall not include any amounts attributable to an increase in the level of monthly insurance benefits payable under such title which have occurred pursuant to section 215(i) for benefits payable for months beginning with December of the previous year.

(ii) For purposes of clause (i), the term "transition month" means each month in a year through the month following the month in which the annual revision of the official poverty line, referred to in subparagraph (A), is published.

(3) The term "medicare cost-sharing" means the following costs incurred with respect to a qualified medicare beneficiary, without regard to whether the costs incurred were for items and services for which medical assistance is otherwise available under the plan:

(A)(i) premiums under section 1818 or 1818A, and
(ii) premiums under section 1839,

(B) Coinsurance under title XVIII (including coinsurance described in section 1813).[47]

(C) Deductibles established under title XVIII (including those described in section 1813 and section 1833(b)).[48]

(D) The difference between the amount that is paid under section 1833(a) and the amount that would be paid under such section if any reference to "80 percent" therein were deemed a reference to "100 percent".

Such term also may include, at the option of a State, premiums for enrollment of a qualified medicare beneficiary with an eligible organization under section 1876.

(4) Notwithstanding any other provision of this title, in the case of a State (other than the 50 States and the District of Columbia)—

(A) the requirement stated in section 1902(a)(10)(E) shall be optional, and

(B) for purposes of paragraph (2), the State may substitute for the percent provided under subparagraph (B) of such paragraph or 1902(a)(10)(E)(iii) any percent.

In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirement of section 1902(a)(10)(E) in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

(q) The term "qualified severely impaired individual" means an individual under age 65—

(1) who for the month preceding the first month to which this subsection applies to such individual—

(A) received (i) a payment of supplemental security income benefits under section 1611(b) on the basis of blindness or disability, (ii) a supplementary payment under section 1616 of this Act or under section 212 of Public Law 93-66 on such basis, (iii) a payment of monthly benefits under section 1619(a), or (iv) a supplementary payment under section 1616(c)(3), and

(B) was eligible for medical assistance under the State plan approved under this title; and

(2) with respect to whom the Commissioner of Social Security[49] determines that—

(A) the individual continues to be blind or continues to have the disabling physical or mental impairment on the basis of which he was found to be under a disability and, except for his earnings, continues to meet all non-disability-related requirements for eligibility for benefits under title XVI,

(B) the income of such individual would not, except for his earnings, be equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments),

(C) the lack of eligibility for benefits under this title would seriously inhibit his ability to continue or obtain employment, and

(D) the individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the benefits under title XVI (including any federally administered State supplementary payments), this title, and publicly funded attendant care services (including personal care assistance) that would be available to him in the absence of such earnings.

In the case of an individual who is eligible for medical assistance pursuant to section 1619(b) in June, 1987, the individual shall be a qualified severely impaired individual for so long as such individual meets the requirements of paragraph (2).

(r) The term "early and periodic screening, diagnostic, and treatment services" means the following items and services:

(1) Screening services—

(A) which are provided—

(i) at intervals which meet reasonable standards of medical and dental practice, as determined by the State after consultation with recognized medical and dental organizations involved in child health care and, with respect to immunizations under subparagraph (B)(iii), in accordance with the schedule referred to in section 1928(c)(2)(B)(i) for pediatric vaccines[50], and

(ii) at such other intervals, indicated as medically necessary, to determine the existence of certain physical or mental illnesses or conditions; and

(B) which shall at a minimum include—

(i) a comprehensive health and developmental history (including assessment of both physical and mental health development),

(ii) a comprehensive unclothed physical exam,

(iii) appropriate immunizations (according to the schedule referred to in section 1928(c)(2)(B)(i) for pediatric vaccines)[51] according to age and health history,

(iv) laboratory tests (including lead blood level assessment appropriate for age and risk factors), and

(v) health education (including anticipatory guidance).

(2) Vision services—

(A) which are provided—

(i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care, and

(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

(B) which shall at a minimum include diagnosis and treatment for defects in vision, including eyeglasses.

(3) Dental services—

(A) which are provided—

(i) at intervals which meet reasonable standards of dental practice, as determined by the State after consultation with recognized dental organizations involved in child health care, and

(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

(B) which shall at a minimum include relief of pain and infections, restoration of teeth, and maintenance of dental health.

(4) Hearing services—

(A) which are provided—

(i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care, and

(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

(B) which shall at a minimum include diagnosis and treatment for defects in hearing, including hearing aids.

(5) Such other necessary health care, diagnostic services, treatment, and other measures described in section 1905(a) to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not such services are covered under the State plan.

Nothing in this title shall be construed as limiting providers of early and periodic screening, diagnostic, and treatment services to providers who are qualified to provide all of the items and services described in the previous sentence or as preventing a provider that is qualified under the plan to furnish one or more (but not all) of such items or services from being qualified to provide such items and services as part of early and periodic screening, diagnostic, and treatment services. The Secretary shall, not later than July 1, 1990, and every 12 months thereafter, develop and set annual participation goals for each State for participation of individuals who are covered under the State plan under this title in early and periodic screening, diagnostic, and treatment services.

(s) The term "qualified disabled and working individual" means an individual—

(1) who is entitled to enroll for hospital insurance benefits under part A of title XVIII under section 1818A (as added by 6012 of the Omnibus Budget Reconciliation Act of 1989[52]);

(2) whose income (as determined under section 1612 for purposes of the supplemental security income program) does not exceed 200 percent of the official poverty line (as defined by

the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981[53]) applicable to a family of the size involved;

(3) whose resources (as determined under section 1613 for purposes of the supplemental security income program) do not exceed twice the maximum amount of resources that an individual or a couple (in the case of an individual with a spouse) may have and obtain benefits for supplemental security income benefits under title XVI; and

(4) who is not otherwise eligible for medical assistance under this title.

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[1] See Vol. II, P.L. 101-508, §4720, with respect to personal care services for Minnesota.

[2] P.L. 103-66, §13603(e)(1), struck out "or".

[3] P.L. 103-66, §13603(e)(2), added "or".

[4] P.L. 103-66, §13603(e)(3), added clause (xi), applicable to medical assistance furnished on or after January 1, 1994, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

[5] P.L. 101-239, §6404(a)(2), struck out "(I)" and substituted "(I)(1)". For the effective date, see Vol. II, P.L. 101-239, §6404(d).

[6] P.L. 101-239, §6404(a)(2), struck out "(I)" and substituted "(I)(1)". For the effective date, see Vol. II, P.L. 101-239, §6404(d).

[7] P.L. 101-239, §6402(c)(1), inserted ", and (C) ambulatory services offered by a health center receiving funds under section 329, 330, or 340 of the Public Health Service Act to a pregnant woman or individual under 18 years of age". See Vol II, P.L. 101-239, §6402(d)(2), for the effective date.

P.L. 101-508, §4704(e), in effect, struck out ", and" and subparagraph (C), effective as if included in the enactment of P.L. 101-239, and revised and redesignated P.L. 101-239, §6402(d).

[8] P.L. 101-239, §6404(a)(3), inserted ", and" and this second subparagraph (C). For the effective date, see Vol. II, P.L. 101-239, §6404(d).

[9] P.L. 100-203, §4211(f), struck out "skilled". For the effective date, see Vol. II, P.L. 100-203, §4214.

[10] P.L. 100-203, §4211(h)(6)(A), struck out "skilled". For the effective date, see Vol. II, P.L. 100-203, §4214.

[11] P.L. 103-66, §13601(a)(1), struck out "including personal care services (A) prescribed by a physician for an individual in accordance with a plan of treatment, (B) provided by an individual who is qualified to provide such services and who is not a member of the individual's family, (C) supervised by a registered nurse, and (D) furnished in a home or other location; but not including such services furnished to an inpatient or resident of a nursing facility", effective with respect to personal care services provided on or after October 1, 1994.

[12] P.L. 103-66, §13605(a), inserted ", and without regard to whether or not the services are performed in the area of management of the care of mothers and babies throughout the maternity cycle", applicable to services furnished on or after October 1, 1993.

[13] P.L. 103-66, §13603(e)(4), amended paragraph (19) in its entirety, applicable to medical assistance furnished on or after January 1, 1994, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date. Paragraph (19) formerly read as follows: "case-management services (as defined in section 1915(g)(2));".

[14] P.L. 103-66, §13601(a)(2), struck out "and".

[15] P.L. 103-66, §13601(a)(4), redesignated paragraph (23) as paragraph (22), with respect to personal care services provided on or after October 1, 1994.

[16] P.L. 103-66, §13601(a)(4), redesignated paragraph (24) as paragraph (23), with respect to personal care services provided on or after October 1, 1994.

[17] P.L. 103-66, §13601(a)(3), struck out a "comma"* and substituted a semicolon.

*Probably should read "period".

[18] P.L. 103-66, §13601(a)(5), added a new paragraph (24), with respect to personal care services provided on or after October 1, 1994.

[19] P.L. 103-66, §13601(a)(4), redesignated paragraph (22) as paragraph (25), with respect to personal care services provided on or after October 1, 1994.

[20] P.L. 103-66, §13601(a)(4), struck out a semicolon and substituted a period, and transferred and inserted paragraph (25) "after paragraph (23), as so redesignated". As in original.

[21] P.L. 94-437.

[22] P.L. 100-203, §4211(e)(sic)(1), amended subsection (c) in its entirety. For the effective date, see Vol. II, P.L. 100-203, §4214. [For subsection (c) as it formerly read, see Vol. III, P.L. 100-203.]

P.L. 100-360, §411(l)(3)(C)(i) [as redesignated by P.L. 100-485, §608(d)(27)(E)], provides that effective July 1, 1988, and until the effective date of §1919(c), this subsection is deemed to include the requirement described in §1919(c)(3)(A).

[23] P.L. 100-203, §4211(e)(sic)(2)(A), struck out "services" and substituted "for the mentally retarded". For the effective date, see Vol. II, P.L. 100-203, §4214.

[24] P.L. 100-203, §4211(e)(sic)(2)(B), struck out "may include services in a public" and substituted "means an". For the effective date, see Vol. II, P.L. 100-203, §4214.

[25] P.L. 100-203, §4211(e)(sic)(2)(C), inserted "in the case of a public institution,". For the effective date, see Vol. II, P.L. 100-203, §4214.

[26] P.L. 100-203, §4211(e)(sic)(3), struck out "skilled". For the effective date, see Vol. II, P.L. 100-203, §4214.

[27] P.L. 100-203, §4211(e)(sic)(3), struck out "skilled". For the effective date, see Vol. II, P.L. 100-203, §4214.

[28] P.L. 100-203, §4211(e)(sic)(3), struck out "skilled". For the effective date, see Vol. II, P.L. 100-203, §4214.

[29] P.L. 100-203, §4211(e)(sic)(3), struck out "skilled". For the effective date, see Vol. II, P.L. 100-203, §4214.

[30] P.L. 100-203, §4211(e)(sic)(3), struck out "skilled". For the effective date, see Vol. II, P.L. 100-203, §4214.

[31] P.L. 103-296, §108(d)(2), struck out "Secretary" and substituted "Commissioner of Social Security", effective August 15, 1994.

[32] P.L. 101-508, §4704(c)(1), struck out "outpatient" and substituted "patient", effective as if included in the enactment of P.L. 101-239. Should read "a patient".

[33] P.L. 101-508, §4707(c)(2), struck out "facility" and substituted "entity", effective as if included in the enactment of P.L. 101-239. As in original. Should read "an entity".

[34] P.L. 103-66, §13631(f)(2)(A), struck out "or 340" and substituted "340, or 340A". For the effective date, see P.L. 103-66, §13631(f)(3), in Appendix B.

[35] P.L. 78-410.

[36] P.L. 103-66, §13606(a)(1), struck out "or".

[37] See footnote 197.

[38] P.L. 103-66, §13606(a)(2), struck out a semicolon and substituted a comma.

P.L. 103-66, §13606(a)(3), moved clause (ii) 4 ems to the left.

[39] P.L. 103-66, §13606(a)(4), added "or".

[40] P.L. 103-66, §13606(a)(5), added clause (iv), applicable to calendar quarters beginning on or after July 1, 1993.

[41] P.L. 103-66, §13631(f)(2)(B), inserted "or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act for the provision of primary health services". For the effective date, see P.L. 103-66, §13631(f)(3), in Appendix B.

[42] P.L. 101-508, §4601(a)(2), struck out "age of 7 (or any age designated by the State that exceeds 7 but does not exceed 8)" and substituted "age of 19". For the effective date, see Vol. II, P.L. 101-508, §4601(b).

[43] P.L. 101-239, §6408(d)(4)(B), inserted ", but not including an individual entitled to such benefits only pursuant to an enrollment under section 1818A". For the effective date, see Vol. II, P.L. 101-239, §6408(d)(5).

[44] P.L. 100-360, §301(e)(2), struck out "(except as provided in paragraph (2)(B))" and substituted "twice". For the effective date, see Vol. II, P.L. 100-360, §301(h).

[45] P.L. 100-360, §301(b)(1) [as amended by P.L. 100-485, §608(d)(14)(A)], struck out "may not exceed a percentage (" and substituted "shall be at least the percent provided under subparagraph (B) (but". For the effective date, see Vol. II, P.L. 100-360, §301(h).

[46] P.L. 97-35.

[47] P.L. 100-360, §301(d)(3) [as redesignated by P.L. 100-485, §608(d)(14)(G)(i)], amended subparagraph (B) in its entirety. Punctuation as in original.

[48] P.L. 100-360, §301(d)(3) [as redesignated by P.L. 100-485, §608(d)(14)(G)(i)], amended subparagraph (C) in its entirety. Punctuation as in original.

[49] P.L. 103-296, §108(d)(3), struck out "Secretary" and substituted "Commissioner of Social Security", effective August 15, 1994.

[50] P.L. 103-66, §13631(g)(1)(A), inserted "and, with respect to immunizations under subparagraph (B)(iii), in accordance with the schedule referred to in section 1928(c)(2)(B)(i) for pediatric vaccines". For the effective date, see P.L. 103-66, §13631(g)(2), in Appendix B.

[51] P.L. 103-66, §13631(g)(1)(B), inserted "(according to the schedule referred to in section 1928(c)(2)(B)(i) for pediatric vaccines)". For the effective date, see P.L. 103-66, §13631(g)(2), in Appendix B.

[52] P.L. 101-239.

[53] P.L. 97-35.

PROVISIONS RESPECTING INAPPLICABILITY AND WAIVER OF CERTAIN REQUIREMENTS OF THIS TITLE

SEC. 1915. [42 U.S.C. 1396n] (a) A State shall not be deemed to be out of compliance with the requirements of paragraphs (1), (10), or (23) of section 1902(a) solely by reason of the fact that the State (or any political subdivision thereof)—

(1) has entered into—

(A) a contract with an organization which has agreed to provide care and services in addition to those offered under the State plan to individuals eligible for medical assistance who reside in the geographic area served by such organization and who elect to obtain such care and services from such organization, or by reason of the fact that the plan provides for payment for rural health clinic services only if those services are provided by a rural health clinic; or

(B) arrangements through a competitive bidding process or otherwise for the purchase of laboratory services referred to in section 1905(a)(3) or medical devices if the Secretary has found that—

(i) adequate services or devices will be available under such arrangements, and

(ii) any such laboratory services will be provided only through laboratories—

(I) which meet the applicable requirements of section 1861(e)(9) or paragraphs (15) and (16)[1] of section 1861(s), and such additional requirements as the Secretary may require, and

(II) no more than 75 percent of whose charges for such services are for services provided to individuals who are entitled to benefits under this title or under part A or part B of title XVIII; or

(2) restricts for a reasonable period of time the provider or providers from which an individual (eligible for medical assistance for items or services under the State plan) can receive such items or services, if—

(A) the State has found, after notice and opportunity for a hearing (in accordance with procedures established by the State), that the individual has utilized such items or services at a frequency or amount not medically necessary (as determined in accordance with utilization guidelines established by the State), and

(B) under such restriction, individuals eligible for medical assistance for such services have reasonable access (taking into account geographic location and reasonable travel time) to such services of adequate quality.

(b) The Secretary, to the extent he finds it to be cost-effective and efficient and not inconsistent with the purposes of this title, may waive such requirements of section 1902 (other than subsection (s))[2] (other than sections 1902(a)(13)(E) and 1902(a)(10)(A) insofar as it requires provision of the care and services described in section 1905(a)(2)(C))[3] as may be necessary for a State—

(1) to implement a primary care case-management system or a specialty physician services arrangement which restricts the provider from (or through) whom an individual (eligible for medical assistance under this title) can obtain medical care services (other than in emergency circumstances), if such restriction does not substantially impair access to such services of adequate quality where medically necessary,

(2) to allow a locality to act as a central broker in assisting individuals (eligible for medical assistance under this title) in selecting among competing health care plans, if such restriction does not substantially impair access to services of adequate quality where medically necessary,

(3) to share (through provision of additional services) with recipients of medical assistance under the State plan cost savings resulting from use by the recipient of more cost-effective medical care, and

(4) to restrict the provider from (or through) whom an individual (eligible for medical assistance under this title) can obtain services (other than in emergency circumstances) to providers or practitioners who undertake to provide such services and who meet, accept, and comply with the reimbursement, quality, and utilization standards under the State plan, which standards shall be consistent with the requirements of section 1923 and[4] are consistent with access, quality, and efficient and economic provision of covered care and services, if such restriction does not discriminate among classes of providers on grounds unrelated to their demonstrated effectiveness and efficiency in providing those services and if providers under such restriction are paid on a timely basis in the same manner as health care practitioners must be paid under section 1902(a)(37)(A).

No waiver under this subsection may restrict the choice of the individual in receiving services under section 1905(a)(4)(C).[5]

(c)(1) The Secretary may by waiver provide that a State plan approved under this title may include as "medical assistance" under such plan payment for part or all of the cost of home or community-based services (other than room and board) approved by the Secretary which are provided pursuant to a written plan of care to individuals with respect to whom there has been a determination that but for the provision of such services the individuals would require the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded[6] the cost of which could be reimbursed under the State plan[7]. For purposes of this subsection, the term "room and board" shall not include an amount established under a method determined by the State to reflect the portion of costs of rent and food attributable to an unrelated personal caregiver who is residing in the same household with an individual who, but for the assistance of such caregiver, would require admission to a hospital, nursing facility, or intermediate care facility for the mentally retarded.

(2) A waiver shall not be granted under this subsection unless the State provides assurances satisfactory to the Secretary that—

(A) necessary safeguards (including adequate standards for provider participation) have been taken to protect the health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services;

(B) the State will provide, with respect to individuals who—

(i) are entitled to medical assistance for inpatient hospital services, nursing facility services, or services in an intermediate care facility for the mentally retarded[8] under the State plan,

(ii) may require such services, and

(iii) may be eligible for such home or community-based care under such waiver, for an evaluation of the need for inpatient hospital services, nursing facility services, or services in an intermediate care facility for the mentally retarded[9];

(C) such individuals who are determined to be likely to require the level of care provided in a hospital, nursing facility, or intermediate care facility for the mentally retarded[10] are informed of the feasible alternatives, if available under the waiver, at the choice of such individuals, to the provision of inpatient hospital services, nursing facility services, or services in an intermediate care facility for the mentally retarded[11];

(D) under such waiver the average per capita expenditure estimated by the State in any fiscal year for medical assistance provided with respect to such individuals does not exceed 100 percent of the average per capita expenditure that the State reasonably estimates would have been made in that fiscal year for expenditures under the State plan for such individuals if the waiver had not been granted; and

(E) the State will provide to the Secretary annually, consistent with a data collection plan designed by the Secretary, information on the impact of the waiver granted under this subsection on the type and amount of medical assistance provided under the State plan and on the health and welfare of recipients.[12]

(3) A waiver granted under this subsection may include a waiver of the requirements of section 1902(a)(1) (relating to statewideness), section 1902(a)(10)(B) (relating to comparability), and section 1902(a)(10)(C)(i)(III) (relating to income and resource

rules applicable in the community). A waiver under this subsection shall be for an initial term of three years and, upon the request of a State, shall be extended for additional five-year periods unless the Secretary determines that for the previous waiver period the assurances provided under paragraph (2) have not been met. A waiver may provide, with respect to post-eligibility treatment of income of all individuals receiving services under that waiver, that the maximum amount of the individual's income which may be disregarded for any month for the maintenance needs of the individual may be an amount greater than the maximum allowed for that purpose under regulations in effect on July 1, 1985.

(4) A waiver granted under this subsection may, consistent with paragraph (2)—

(A) limit the individuals provided benefits under such waiver to individuals with respect to whom the State has determined that there is a reasonable expectation that the amount of medical assistance provided with respect to the individual under such waiver will not exceed the amount of such medical assistance provided for such individual if the waiver did not apply, and

(B) provide medical assistance to individuals (to the extent consistent with written plans of care, which are subject to the approval of the State) for case management services, homemaker/home health aide services and personal care services, adult day health services, habilitation services, respite care, and such other services requested by the State as the Secretary may approve and for day treatment or other partial hospitalization services, psychosocial rehabilitation services, and clinic services (whether or not furnished in a facility) for individuals with chronic mental illness.

Except as provided under paragraph (2)(D), the Secretary may not restrict the number of hours or days of respite care in any period which a State may provide under a waiver under this subsection.

(5) For purposes of paragraph (4)(B), the term "habilitation services", with respect to individuals who receive such services after discharge from a nursing facility or intermediate care facility for the mentally retarded[13]—

(A) means services designed to assist individuals in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community based settings; and

(B) includes (except as provided in subparagraph (C)) prevocational, educational, and supported employment services; but

(C) does not include—

(i) special education and related services (as defined in section 602(16) and (17) of the Education of the Handicapped Act[14] (20 U.S.C. 1401(16), (17)) which otherwise are available to the individual through a local educational agency; and

(ii) vocational rehabilitation services which otherwise are available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973.[15]

(6) The Secretary may not require, as a condition of approval of a waiver under this section under paragraph (2)(D), that the actual total expenditures for home and community-based services under the waiver (and a claim for Federal financial participation in expenditures for the services) cannot exceed the approved estimates for these services. The Secretary may not deny Federal financial payment with respect to services under such a waiver on the ground that, in order to comply with paragraph (2)(D), a State has failed to comply with such a requirement.

(7)(A) In making estimates under paragraph (2)(D) in the case of a waiver that applies only to individuals with a particular illness or condition who are inpatients in, or who would require the level of care provided in, hospitals, nursing facilities, or intermediate care facilities for the mentally retarded[16], the State may determine the average per capita expenditure that would have been made in a fiscal year for those individuals under the State plan separately from the expenditures for other individuals who are inpatients in, or who would require the level of care provided in, those respective facilities.

(B) In making estimates under paragraph (2)(D) in the case of a waiver that applies only to individuals with developmental disabilities who are inpatients in a nursing facility[17] and whom the State has determined, on the basis of an evaluation under paragraph (2)(B), to need the level of services provided by an intermediate care facility for the mentally retarded, the State may determine the average per capita expenditures that would have been made in a fiscal year for those individuals under the State plan on the basis of the average per capita expenditures under the State plan for services to individuals who are inpatients in an intermediate care facility for the mentally retarded, without regard to the availability of beds for such inpatients.

(C) In making estimates under paragraph (2)(D) in the case of a waiver to the extent that it applies to individuals with mental retardation or a related condition who are resident in an intermediate care facility for the mentally retarded the participation of which under the State plan is terminated, the State may determine the average per capita expenditures that would have been made in a fiscal year for those individuals without regard to any such termination.

(8) The State agency administering the plan under this title may, whenever appropriate, enter into cooperative arrangements with the State agency responsible for administering the program for children with special health care needs under title V in order to assure improved access to coordinated services to meet the needs

of such children.

(9) In the case of any waiver under this subsection which contains a limit on the number of individuals who shall receive home or community-based services, the State may substitute additional individuals to receive such services to replace any individuals who die or become ineligible for services under the State plan.

(10) The Secretary shall not limit to fewer than 200 the number of individuals in the State who may receive home and community-based services under a waiver under this subsection.

(d)(1) Subject to paragraph (2), the Secretary shall grant a waiver to provide that a State plan approved under this title shall include as "medical assistance" under such plan payment for part or all of the cost of home or community-based services (other than room and board) which are provided pursuant to a written plan of care to individuals 65 years of age or older with respect to whom there has been a determination that but for the provision of such services the individuals would be likely to require the level of care provided in a skilled nursing facility or intermediate care facility the cost of which could be reimbursed under the State plan. For purposes of this subsection, the term "room and board" shall not include an amount established under a method determined by the State to reflect the portion of costs of rent and food attributable to an unrelated personal caregiver who is residing in the same household with an individual who, but for the assistance of such caregiver, would require admission to a hospital, nursing facility, or intermediate care facility for the mentally retarded.

(2) A waiver shall not be granted under this subsection unless the State provides assurances satisfactory to the Secretary that—

(A) necessary safeguards (including adequate standards for provider participation) have been taken to protect the health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services;

(B) with respect to individuals 65 years of age or older who—

(i) are entitled to medical assistance for skilled nursing or intermediate care facility services under the State plan,

(ii) may require such services, and

(iii) may be eligible for such home or community-based services under such waiver, the State will provide for an evaluation of the need for such skilled nursing facility or intermediate care facility services; and

(C) such individuals who are determined to be likely to require the level of care provided in a skilled nursing facility or intermediate care facility are informed of the feasible alternatives to the provision of skilled nursing facility or intermediate care facility services, which such individuals may choose if available under the waiver.

Each State with a waiver under this subsection shall provide to the Secretary annually, consistent with a reasonable data collection plan designed by the Secretary, information on the impact of the waiver granted under this subsection on the type and amount of medical assistance provided under the State plan and on the health and welfare of recipients.

(3) A waiver granted under this subsection may include a waiver of the requirements of section 1902(a)(1) (relating to statewideness), section 1902(a)(10)(B) (relating to comparability), and section 1902(a)(10)(C)(i)(III) (relating to income and resource rules applicable in the community). Subject to a termination by the State (with notice to the Secretary) at any time, a waiver under this subsection shall be for an initial term of 3 years and, upon the request of a State, shall be extended for additional 5-year periods unless the Secretary determines that for the previous waiver period the assurances provided under paragraph (2) have not been met. A waiver may provide, with respect to post-eligibility treatment of income of all individuals receiving services under the waiver, that the maximum amount of the individual's income which may be disregarded for any month is equal to the amount that may be allowed for that purpose under a waiver under subsection (c).

(4) A waiver under this subsection may, consistent with paragraph (2), provide medical assistance to individuals for case management services, homemaker/home health aide services and personal care services, adult day health services, respite care, and other medical and social services that can contribute to the health and well-being of individuals and their ability to reside in a community-based care setting.

(5)(A) In the case of a State having a waiver approved under this subsection, notwithstanding any other provision of section 1903 to the contrary, the total amount expended by the State for medical assistance with respect to skilled nursing facility services, intermediate care facility services, and home and community-based services under the State plan for individuals 65 years of age or older during a waiver year under this subsection may not exceed the projected amount determined under subparagraph (B).

(B) For purposes of subparagraph (A), the projected amount under this subparagraph is the sum of the following:

(i) The aggregate amount of the State's medical assistance under this title for skilled nursing facility services and intermediate care facility services furnished to individuals who have attained the age of 65 for the base year increased by a percentage which is equal to the lesser of 7 percent times the number of years (rounded to the nearest quarter of a year) beginning after the base year and ending at the end of the waiver year involved or the sum of—

(I) the percentage increase (based on an appropriate market-basket index representing the costs of elements of such services) between the beginning of the base year and the beginning of the waiver year involved, plus

(II) the percentage increase between the beginning of the base year and the beginning of the waiver year involved in the number of residents in the State who have attained the age of 65, plus

(III) 2 percent for each year (rounded to the nearest quarter of a year) beginning after the base year and ending at the end of the waiver year.

(ii) The aggregate amount of the State's medical assistance under this title for home and community-based services for individuals who have attained the age of 65 for the base year increased by a percentage which is equal to the lesser of 7 percent times the number of years (rounded to the nearest quarter of a year) beginning after the base year and ending at the end of the waiver year involved or the sum of—

(I) the percentage increase (based on an appropriate market-basket index representing the costs of elements of such services) between the beginning of the base year and the beginning of the waiver year involved, plus

(II) the percentage increase between the beginning of the base year and the beginning of the waiver year involved in the number of residents in the State who have attained the age of 65, plus

(III) 2 percent for each year (rounded to the nearest quarter of a year) beginning after the base year and ending at the end of the waiver year.

(iii) The Secretary shall develop and promulgate by regulation (by not later than October 1, 1989)—

(I) a method, based on an index of appropriately weighted indicators of changes in the wages and prices of the mix of goods and services which comprise both skilled nursing facility services and intermediate care facility services (regardless of the source of payment for such services), for projecting the percentage increase for purposes of clause (i)(I);

(II) a method, based on an index of appropriately weighted indicators of changes in the wages and prices of the mix of goods and services which comprise home and community-based services (regardless of the source of payment for such services), for projecting the percentage increase for purposes of clause (ii)(I); and

(III) a method for projecting, on a State specific basis, the percentage increase in the number of residents in each State who are over 65 years of age for any period.

The Secretary shall develop (by not later than October 1, 1989) a method for projecting, on a State-specific basis, the percentage increase in the number of residents in each State who are over 75[18] years of age for any period. Effective on and after the date the Secretary promulgates the regulation under clause (iii), any reference in this subparagraph to the "lesser of 7 percent" shall be deemed to be a reference to the "greater of 7 percent".[19]

(iv) If there is enacted after December 22, 1987, an Act which amends this title whose provisions become effective on or after such date and which results in an increase in the aggregate amount of medical assistance under this title for nursing facility services and home and community-based services for individuals who have attained the age of 65 years, the Secretary, at the request of a State with a waiver under this subsection for a waiver year or years and in close consultation with the State, shall adjust the projected amount computed under this subparagraph for the waiver year or years to take into account such increase.[20]

(C) In this paragraph:

(i) The term "home and community-based services" includes services described in sections 1905(a)(7) and 1905(a)(8), services described in subsection (c)(4)(B), services described in paragraph (4), and personal care services.

(ii)(I) Subject to subclause (II), the term "base year" means the most recent year (ending before the date of the enactment of this subsection) for which actual final expenditures under this title have been reported to, and accepted by, the Secretary.

(II) For purposes of subparagraph (C), in the case of a State that does not report expenditures on the basis of the age categories described in such subparagraph for a year ending before the date of the enactment of this subsection, the term "base year" means fiscal year 1989.

(iii) The term "intermediate care facility services" does not include services furnished in an institution certified in accordance with section 1905(d).

(6)(A) A determination by the Secretary to deny a request for a waiver (or extension of waiver) under this subsection shall be subject to review to the extent provided under section 1116(b).

(B) Notwithstanding any other provision of this Act, if the Secretary denies a request of the State for an extension of a waiver under this subsection, any waiver under this subsection in effect on the date such request is made shall remain in effect for a period of not less than 90 days after the date on which the Secretary denies such request (or, if the State seeks review of such determination in accordance with subparagraph (A), the date on which a final determination is made with respect to such review).

(e)(1)(A) Subject to paragraph (2), the Secretary shall grant a waiver to provide that a State plan approved under this title shall include as "medical assistance" under such plan payment for part or all of the cost of nursing care, respite care, physicians' services, prescribed drugs, medical devices and supplies, transportation services, and such other services requested by the State as the

Secretary may approve which are provided pursuant to a written plan of care to a child described in subparagraph (B) with respect to whom there has been a determination that but for the provision of such services the infants would be likely to require the level of care provided in a hospital or nursing facility the cost of which could be reimbursed under the State plan.

(B) Children described in this subparagraph are individuals under 5 years of age who—

(i) at the time of birth were infected with (or tested positively for) the etiologic agent for acquired immune deficiency syndrome (AIDS),

(ii) have such syndrome, or

(iii) at the time of birth were dependent on heroin, cocaine, or phencyclidine,

and with respect to whom adoption or foster care assistance is (or will be) made available under part E of title IV.

(2) A waiver shall not be granted under this subsection unless the State provides assurances satisfactory to the Secretary that—

(A) necessary safeguards (including adequate standards for provider participation) have been taken to protect the health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services;

(B) under such waiver the average per capita expenditure estimated by the State in any fiscal year for medical assistance provided with respect to such individuals does not exceed 100 percent of the average per capita expenditure that the State reasonably estimates would have been made in that fiscal year for expenditures under the State plan for such individuals if the waiver had not been granted; and

(C) the State will provide to the Secretary annually, consistent with a data collection plan designed by the Secretary, information on the impact of the waiver granted under this subsection on the type and amount of medical assistance provided under the State plan and on the health and welfare of recipients.

(3) A waiver granted under this subsection may include a waiver of the requirements of section 1902(a)(1) (relating to statewideness) and section 1902(a)(10)(B) (relating to comparability). A waiver under this subsection shall be for an initial term of 3 years and, upon the request of a State, shall be extended for additional five-year periods unless the Secretary determines that for the previous waiver period the assurances provided under paragraph (2) have not been met.

(4) The provisions of paragraph (6) of subsection (d) shall apply to this subsection in the same manner as it applies to subsection (d).

(f)(1) The Secretary shall monitor the implementation of waivers granted under this section to assure that the requirements for such waiver are being met and shall, after notice and opportunity for a hearing, terminate any such waiver where he finds noncompliance has occurred.

(2) A request to the Secretary from a State for approval of a proposed State plan or plan amendment or a waiver of a requirement of this title submitted by the State pursuant to a provision of this title shall be deemed granted unless the Secretary, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the State agency in writing with respect to any additional information which is needed in order to make a final determination with respect to the request. After the date the Secretary receives such additional information, the request shall be deemed granted unless the Secretary, within 90 days of such date, denies such request.

(g)(1) A State may provide, as medical assistance, case management services under the plan without regard to the requirements of section 1902(a)(1) and section 1902(a)(10)(B). The provision of case management services under this subsection shall not restrict the choice of the individual to receive medical assistance in violation of section 1902(a)(23). A State may limit the provision of case management services under this subsection to individuals with acquired immune deficiency syndrome (AIDS), or with AIDS-related conditions, or with either, or to individuals described in section 1902(z)(1)(A)[21] and a State may limit the provision of case management services under this subsection to individuals with chronic mental illness. The State may limit the case managers available with respect to case management services for eligible individuals with developmental disabilities or with chronic mental illness in order to ensure that the case managers for such individuals are capable of ensuring that such individuals receive needed services.

(2) For purposes of this subsection, the term "case management services" means services which will assist individuals eligible under the plan in gaining access to needed medical, social, educational, and other services.

(h) No waiver under this section (other than a waiver under subsection (c), (d), or (e)) may extend over a period of longer than two years unless the State requests continuation of such waiver, and such request shall be deemed granted unless the Secretary, within 90 days after the date of its submission to the Secretary, either denies such request in writing or informs the State agency in writing with respect to any additional information which is needed in order to make a final determination with respect to the request. After the date the Secretary receives such additional information, the request shall be deemed granted unless the Secretary, within 90 day[22] of such date, denies such request.

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[1] P.L. 99-509, §9320(h)(3), struck out "(11) and (12)" and substituted "(12) and (13)", applicable to services furnished on or after January 1, 1989. For the applicability of this amendment, see Vol. II, P.L. 99-509, §9320(k), as added by P.L. 100-485 and amended by P.L. 101-239.

P.L. 100-203, §4072(d), struck out "(12) and (13)" and substituted "(13) and (14)". For the effective date, see Vol. II, P.L. 100-203, §4072(e).

P.L. 101-239, §6115(c), struck out "(14) and (15)" and substituted "(15) and (16)", applicable to screening pap smears performed on or after July 1, 1990. Executed as if §6115(c) reads "by striking "paragraphs (13) and (14)...".

[2] P.L. 101-508, §4604(c), inserted "(other than subsection (s))" after "Section 1902", effective for payments under title XIX for calendar quarters beginning on or after July 1, 1991, without regard to whether or not final regulations to carry out this amendment have been promulgated by such date. Executed as if "Section 1902" read "section 1902".

See Vol. II, P.L. 101-508, §4604(d)(2), in the case of a State plan requiring legislation.

[3] P.L. 101-508, §4704(b)(3) inserted "(other than sections 1902(a)(13)(E) and 1902(a)(10)(A) insofar as it requires provision of the care and services described in section 1905(a)(2)(C))" after "section 1902", effective as if included in the enactment of P.L. 101-239. Executed as if "section 1902" read "subsection (s))".

[4] P.L. 101-239, §6411(c)(2), inserted "shall be consistent with the requirements of section 1923 and", effective as if included in the enactment of P.L. 100-203.

[5] See Vol. II, P.L. 99-272, §9524, with respect to the Wisconsin health maintenance organization waiver.

[6] P.L. 100-203, §4211(h)(10)(A), struck out "skilled nursing facility or intermediate care facility" and substituted "nursing facility or intermediate care facility for the mentally retarded". For the effective date, see Vol. II, P.L. 100-203, §4214.

[7] See Vol. II, P.L. 99-272, §9502(f), with respect to waiver extensions.

[8] P.L. 100-203, §4211(h)(10)(B), struck out ", skilled nursing facility, or intermediate care facility services" and substituted "services, nursing facility services, or services in an intermediate care facility for the mentally retarded". For the effective date, see Vol. II, P.L. 100-203, §4214.

[9] P.L. 100-203, §4211(h)(10)(C), struck out "need for such inpatient hospital, skilled nursing facility or intermediate care facility services" and substituted "need for inpatient hospital services, nursing facility services, or services in an intermediate care facility for the mentally retarded". For the effective date, see Vol. II, P.L. 100-203, §4214.

[10] P.L. 100-203, §4211(h)(10)(D), struck out "or skilled nursing facility or intermediate care facility" and substituted ", nursing facility, or intermediate care facility for the mentally retarded". For the effective date, see Vol. II, P.L. 100-203, §4214.

[11] P.L. 100-203, §4211(h)(10)(E), struck out "or skilled nursing facility or intermediate care facility services" and substituted ", nursing facility services, or services in an intermediate care facility for the mentally retarded". For the effective date, see Vol. II, P.L. 100-203, §4214.

[12] See Vol. II, P.L. 101-508, §4742(e), with respect to adjustments in estimates to take into account preadmission screening requirement.

[13] P.L. 100-203, §4211(h)(10)(F), struck out "skilled nursing facility or intermediate care facility" and substituted "nursing facility or intermediate care facility for the mentally retarded". For the effective date, see Vol. II, P.L. 100-203, §4214.

[14] P.L. 91-230; Title VI.

P.L. 101-476, §901(a)(3), provides that any other Act and any regulation which refers to the Education of the Handicapped Act shall be considered to refer to the Individuals with Disabilities Education Act.

[15] P.L. 93-112. (29 U.S.C. 730)

[16] P.L. 100-203, §4211(h)(10)(G), struck out "or in skilled nursing or intermediate care facilities" and substituted ", nursing facilities, or intermediate care facilities for the mentally retarded". For the effective date, see Vol. II, P.L. 100-203, §4214.

[17] P.L. 100-203, §4211(h)(10)(G) [as amended by P.L. 100-360, §411(l)(3)(G)], struck out "skilled nursing facility or intermediate care facility" and substituted "nursing facility". For the effective date, see Vol. II, P.L. 100-203, §4214.

[18] As in original. Possibly should be "65".

[19] Alignment as in original.

[20] Alignment as in original.

[21] P.L. 103-66, §13603(d), inserted "or to individuals described in section 1902(z)(1)(A)", applicable to medical assistance furnished on or after January 1, 1994, without regard to whether or not final regulations to carry out such amendment have been promulgated by

such date.

[22] As in original. Probably should be "days".

PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN

SEC. 1920. [42 U.S.C. 1396r-1] (a) A State plan approved under section 1902 may provide for making ambulatory prenatal care available to a pregnant woman during a presumptive eligibility period.

(b) For purposes of this section—

(1) the term "presumptive eligibility period" means, with respect to a pregnant woman, the period that—

(A) begins with the date on which a qualified provider determines, on the basis of preliminary information, that the family income of the woman does not exceed the applicable income level of eligibility under the State plan, and

(B) ends with (and includes) the earlier of—

(i) the day on which a determination is made with respect to the eligibility of the woman for medical assistance under the State plan, or

(ii) in the case of a woman who does not file an application by the last day of the month following the month during which the provider makes the determination referred to in subparagraph (A), such last day; and

(2) the term "qualified provider" means any provider that—

(A) is eligible for payments under a State plan approved under this title,

(B) provides services of the type described in subparagraph (A) or (B) of section 1905(a)(2) or in section 1905(a)(9),

(C) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A), and

(D)(i) receives funds under—

(I) section 329, 330, or 340 of the Public Health Service Act[1],

(II) title V of this Act, or

(III) title V of the Indian Health Care Improvement Act[2];

(ii) participates in a program established under—

(I) section 17 of the Child Nutrition Act of 1966[3], or

(II) section 4(a) of the Agriculture and Consumer Protection Act of 1973[4];

(iii) participates in a State perinatal program; or

(iv) is the Indian Health Service or is a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (Public Law 93-638).

(c)(1) The State agency shall provide qualified providers with—

(A) such forms as are necessary for a pregnant woman to make application for medical assistance under the State plan, and

(B) information on how to assist such women in completing and filing such forms.

(2) A qualified provider that determines under subsection (b)(1)(A) that a pregnant woman is presumptively eligible for medical assistance under a State plan shall—

(A) notify the State agency of the determination within 5 working days after the date on which determination is made, and

(B) inform the woman at the time the determination is made that she is required to make application for medical assistance under the State plan by not later than the last day of the month following the month during which the determination is made.

(3) A pregnant woman who is determined by a qualified provider to be presumptively eligible for medical assistance under a State plan shall make application for medical assistance under such plan by not later than the last day of the month following the month during which the determination is made, which application may be the application used for the receipt of medical assistance by individuals described in section 1902(l)(1)(A)[5].

(d) Notwithstanding any other provision of this title, ambulatory prenatal care that—

(1) is furnished to a pregnant woman—

(A) during a presumptive eligibility period,

(B) by a provider that is eligible for payments under the State plan; and

(2) is included in the care and services covered by a State plan;

shall be treated as medical assistance provided by such plan for purposes of section 1903.

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[1] P.L. 78-410.

[2] P.L. 94-437.

[3] P.L. 89-642.

[4] P.L. 93-86.

[5] P.L. 101-508, §4605(b), inserted ", which application may be the application used for the receipt of medical assistance by individuals described in section 1902(l)(1)(A)", effective as if included in the enactment of P.L. 99-509, §9407(b).

RELATED SECTIONS OF THE PUBLIC HEALTH SERVICE ACT

TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE

PART A—RESEARCH AND INVESTIGATIONS

IN GENERAL

SEC. 301. (a) The Secretary shall conduct in the Service, and encourage, cooperate with, and render assistance to other appropriate public authorities, scientific institutions, and scientists in the conduct of, and promote the coordination of, research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases and impairments of man, including water purification, sewage treatment, and pollution of lakes and streams. In carrying out the foregoing the Secretary is authorized to—

(1) collect and make available through publications and other appropriate means, information as to, and the practical application of, such research and other activities;

(2) make available research facilities of the Service to appropriate public authorities, and to health officials and scientists engaged in special study;

(3) make grants-in-aid to universities, hospital laboratories, and other public or private institutions, and to individuals for such research projects as are recommended by the advisory council to the entity of the Department supporting such projects and make, upon recommendation of the advisory council to the appropriate entity of the Department, grants-in-aid to public or nonprofit universities, hospitals, laboratories, and other institutions for the general support of their research;

(4) secure from time to time and for such periods as he deems advisable, the assistance and advice of experts, scholars, and consultants from the United States or abroad;

(5) for purposes of study, admit and treat at institutions, hospitals, and stations of the Service, persons not otherwise eligible for such treatment;

(6) make available, to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical methods to experiments, studies, and surveys in health and medical fields;

(7) enter into contracts, including contracts for research in accordance with and subject to the provisions of law applicable to contracts entered into by the military departments under sections 2353 and 2354 of title 10, except that determination, approval, and certification required thereby shall be by the Secretary of Health and Human

Services; and

(8) adopt, upon recommendations of the advisory councils to the appropriate entities of the Department or, with respect to mental health, the National Advisory Mental Health Council, such additional means as the Secretary considers necessary or appropriate to carry out the purposes of this section.

The Secretary may make available to individuals and entities, for biomedical and behavioral research, substances and living organisms. Such substances and organisms shall be made available under such terms and conditions (including payment for them) as the Secretary determines appropriate.

(b)(1) The Secretary shall conduct and may support through grants and contracts studies and testing of substances for carcinogenicity, teratogenicity, mutagenicity, and other harmful biological effects. In carrying out this paragraph, the Secretary shall consult with entities of the Federal Government, outside of the Department of Health and Human Services, engaged in comparable activities. The Secretary, upon request of such an entity and under appropriate arrangements for the payment of expenses, may conduct for such entity studies and testing of substances for carcinogenicity, teratogenicity, mutagenicity, and other harmful biological effects.

(2)(A) The Secretary shall establish a comprehensive program of research into the biological effects of low-level ionizing radiation under which program the Secretary shall conduct such research and may support such research by others through grants and contracts.

(B) The Secretary shall conduct a comprehensive review of Federal programs of research on the biological effects of ionizing radiation.

(3) The Secretary shall conduct and may support through grants and contracts research and studies on human nutrition, with particular emphasis on the role of nutrition in the prevention and treatment of disease and on the maintenance and promotion of health, and programs for the dissemination of information respecting human nutrition to health professionals and the public. In carrying out activities under this paragraph, the Secretary shall provide for the coordination of such of these activities as are performed by the different divisions within the Department of Health and Human Services and shall consult with entities of the Federal Government, outside of the Department of Health and Human Services, engaged in comparable activities. The Secretary, upon request of such an entity and under appropriate arrangements for the payment of expenses, may conduct and support such activities for such entity.

(4) The Secretary shall publish a biennial report which contains—

(A) a list of all substances (i) which either are known to be carcinogens or may reasonably be anticipated to be carcinogens and (ii) to which a significant number of persons residing in the United States are exposed;

(B) information concerning the nature of such exposure and the estimated number of persons exposed to such substances;

(C) a statement identifying (i) each substance contained in the list under subparagraph (A) for which no effluent, ambient, or exposure standard has been established by a Federal agency, and (ii) for each effluent, ambient, or exposure standard established by a Federal agency with respect to a substance contained in the list under subparagraph (A), the extent to which, on the basis of available medical, scientific, or other data, such standard, and the implementation of such standard by the agency, decreases the risk to public health from exposure to the substance; and

(D) a description of (i) each request received during the year involved—

(I) from a Federal agency outside the Department of Health and Human Services for the Secretary, or

(II) from an entity within the Department of Health and Human Services to any other entity within the Department,

to conduct research into, or testing for, the carcinogenicity of substances or to provide information described in clause (ii) of subparagraph (C), and (ii) how the Secretary and each such other entity, respectively, have responded to each such request.

(5) The authority of the Secretary to enter into any contract for the conduct of any study, testing, program, research, or review, or assessment under this subsection shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

(c) The Secretary may conduct biomedical research, directly or through grants or contracts, for the identification, control, treatment, and prevention of diseases (including tropical diseases) which do not occur to a significant extent in the United States.

(d) The Secretary may authorize persons engaged in biomedical, behavioral, clinical, or other research (including research on mental health, including research on the use and effect of alcohol and other psychoactive drugs) to protect the privacy of individuals who are the subject of such research by withholding from all persons not connected with the conduct of such research the names or other identifying characteristics of such individuals. Persons so authorized to protect the privacy of such individuals may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals.

SCREENINGS, REFERRALS, AND EDUCATION REGARDING LEAD POISONING

SEC. 317A. (a) AUTHORITY FOR GRANTS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States and political subdivisions of States for the initiation and expansion of community programs designed—

(A) to provide, for infants and children—

(i) screening for elevated blood lead levels;

(ii) referral for treatment of such levels; and

(iii) referral for environmental intervention associated with such levels; and

(B) to provide education about childhood lead poisoning.

(2) AUTHORITY REGARDING CERTAIN ENTITIES.—With respect to a geographic area with a need for activities authorized in paragraph (1), in any case in which neither the State nor the political subdivision in which such area is located has applied for a grant under paragraph (1), the Secretary may make a grant under such paragraph to any grantee under section 329, 330, 340 or 340A for carrying out such activities in the area.

(3) PROVISION OF ALL SERVICES AND ACTIVITIES THROUGH EACH GRANTEE.—In making grants under paragraph (1), the Secretary shall ensure that each of the activities described in such paragraph is provided through each grantee under such paragraph. The Secretary may authorize such a grantee to provide the services and activities directly, or through arrangements with other providers.

(B) STATUS AS MEDICAID PROVIDER.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary may not make a grant under subsection (a) of this section unless, in the case of any service described in such subsection that is made available pursuant to the State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for the State involved—

(A) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(B) the applicant will enter into an agreement with a provider under which the provider will provide the service, and the provider has entered into such a participation agreement and is qualified to receive such payments.

(2) WAIVER REGARDING CERTAIN SECONDARY AGREEMENTS.—

(A) In the case of a provider making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the provider does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits plan.

(B) A determination by the Secretary of whether a provider referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the provider accepts voluntary donations regarding the provision of services to the public.

(c) PRIORITY IN MAKING GRANTS.—In making grants under subsection (a) of this section, the Secretary shall give priority to applications for programs that will serve areas with a high incidence of elevated blood lead levels in infants and children.

(d) GRANT APPLICATION.—No grant may be made under subsection (a) of this section, unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and shall be submitted in such manner as the Secretary shall prescribe and shall include each of the following:

(1) A complete description of the program which is to be provided by or through the applicant.

(2) Assurances satisfactory to the Secretary that the program to be provided under the grant applied for will include educational programs designed to—

(A) communicate to parents, educators, and local health officials the significance and prevalence of lead poisoning in infants and children (including the sources of lead exposure, the importance of screening young children for lead, and the preventive steps that parents can take in reducing the risk of lead poisoning) which the program is designed to detect and prevent; and

(B) communicate to health professionals and paraprofessionals updated knowledge concerning lead poisoning and research (including the health consequences, if any, of low-level lead burden; the prevalence of lead poisoning among all socioeconomic groupings; the benefits of expanded lead screening; and the therapeutic and other interventions available to prevent and combat lead poisoning in affected children and families).

(3) Assurances satisfactory to the Secretary that the applicant will report on a quarterly basis the number of infants and children screened for elevated blood lead levels, the number of infants and children who were found to have elevated blood lead levels, the number and type of medical referrals made for such infants and children, the outcome of

such referrals, and other information to measure program effectiveness.

(4) Assurances satisfactory to the Secretary that the applicant will make such reports respecting the program involved as the Secretary may require.

(5) Assurances satisfactory to the Secretary that the applicant will coordinate the activities carried out pursuant to subsection (a) of this section with related activities and services carried out in the State by grantees under title V or XIX of the Social Security Act.

(6) Assurances satisfactory to the Secretary that Federal funds made available under such a grant for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program for which the grant is to be made and will in no event supplant such State, local, and other non-Federal funds.

(7) Such other information as the Secretary may prescribe.

(e) RELATIONSHIP TO SERVICES AND ACTIVITIES UNDER OTHER PROGRAMS.—

(1) IN GENERAL.—A recipient of a grant under subsection (a) of this section may not make payments from the grant for any service or activity to the extent that payment has been made, or can reasonably be expected to be made, with respect to such service or activity—

(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(B) by an entity that provides health services on a prepaid basis.

(2) APPLICABILITY TO CERTAIN SECONDARY AGREEMENTS FOR PROVISION OF SERVICES.—Paragraph (1) shall not apply in the case of a provider through which a grantee under subsection (a) of this section provides services under such subsection if the Secretary has provided a waiver under subsection (b)(2) of this section regarding the provider.

(f) METHOD AND AMOUNT OF PAYMENT.—The Secretary shall determine the amount of a grant made under subsection (a) of this section. Payments under such grants may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants. Not more than 10 percent of any grant may be obligated for administrative costs.

(g) SUPPLIES, EQUIPMENT, AND EMPLOYEE DETAIL.—The Secretary, at the request of a recipient of a grant under subsection (a) of this section, may reduce the amount of such grant by—

(1) the fair market value of any supplies or equipment furnished the grant recipient; and

(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee; when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) of this section is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

(h) RECORDS.—Each recipient of a grant under subsection (a) of this section shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(i) AUDIT AND EXAMINATION OF RECORDS.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of a grant under subsection (a) of this section, that are pertinent to such grant.

(j) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than May 1 of each year, the Secretary shall submit to the Congress a report on the effectiveness during the preceding fiscal year of programs carried out with grants under subsection (a) of this section and of any programs that are carried out by the Secretary pursuant to subsection (l)(2) of this section.

(2) CERTAIN REQUIREMENTS.—Each report under paragraph (1) shall include, in addition to any other information that the Secretary may require, the following information:

(A) The number of infants and children screened.

(B) Demographic information on the population of infants and children screened, including the age and racial or ethnic status of such population.

(C) The number of screening sites.

(D) A description of the severity of the extent of the blood lead levels of the infants and children screened, expressed in categories of severity.

(E) The sources of payment for the screenings.

(F) A comparison of the data provided pursuant to subparagraphs (A) through (E) with the equivalent data, if any, provided in the report under paragraph (1) preceding the report involved.

(k) INDIAN TRIBES.—For purposes of this section, the term 'political subdivision' includes Indian tribes.

(l) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $40,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

(2) ALLOCATION FOR OTHER PROGRAMS.—Of the amounts appropriated under paragraph (1) for any fiscal year, the Secretary may reserve not more than 20 percent for carrying out programs regarding the activities described in subsection (a) of this section in addition to the program of grants established in such subsection.

EDUCATION, TECHNOLOGY ASSESSMENT, AND EPIDEMIOLOGY REGARDING LEAD POISONING

SEC. 317B. (a) PREVENTION.—

(1) PUBLIC EDUCATION.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall carry out a program to educate health professionals and paraprofessionals and the general public on the prevention of lead poisoning in infants and children. In carrying out the program, the Secretary shall make available information concerning the health effects of low-level lead toxicity, the causes of lead poisoning, and the primary and secondary preventive measures that may be taken to prevent such poisoning.

(2) INTERAGENCY TASK FORCE.—

(A) Not later than 6 months after October 27, 1992, the Secretary shall establish a council to be known as the Interagency Task Force on the Prevention of Lead Poisoning (in this paragraph referred to as the "Task Force"). The Task Force shall coordinate the efforts of Federal agencies to prevent lead poisoning.

(B) The Task Force shall be composed of—

(i) the Secretary, who shall serve as the chair of the Task Force;

(ii) the Secretary of Housing and Urban Development;

(iii) the Administrator of the Environmental Protection Agency; and

(iv) senior staff of each of the officials specified in clauses (i) through (iii), as selected by the officials respectively.

(C) The Task Force shall—

(i) review, evaluate, and coordinate current strategies and plans formulated by the officials serving as members of the Task Force, including—

(I) the plan of the Secretary of Health and Human Services entitled "Strategic Plan for the Elimination of Lead Poisoning", dated February 21, 1991;

(II) the plan of the Secretary of Housing and Urban Development entitled "Comprehensive and Workable Plan for the Abatement of Lead-Based Paint in Privately Owned Housing", dated December 7, 1990; and

(III) the strategy of the Administrator of the Environmental Protection Agency entitled "Strategy for Reducing Lead Exposures", dated February 21, 1991;

(ii) develop a unified implementation plan for programs that receive Federal financial assistance for activities related to the prevention of lead poisoning;

(iii) establish a mechanism for sharing and disseminating information among the agencies represented on the Task Force;

(iv) identify the most promising areas of research and education concerning lead poisoning;

(v) identify the practical and technological constraints to expanding lead poisoning prevention;

(vi) annually carry out a comprehensive review of Federal programs providing assistance to prevent lead poisoning, and not later than May 1 of each year, submit to the Committee on Labor and Human Resources of the Senate and the Committee on the Environment and Public Works of the Senate, and to the Committee on Energy and Commerce of the House of Representatives, a report that summarizes the findings made as a result of such review and that contains the recommendations of the Task Force on the programs and policies with respect to which the Task Force is established, including related budgetary recommendations; and

(vii) annually review and coordinate departmental and agency budgetary requests with respect to all lead poisoning prevention activities of the Federal Government.

(b) TECHNOLOGY ASSESSMENT AND EPIDEMIOLOGY.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, directly or through grants or contracts—

(1) provide for the development of improved, more cost-effective testing measures for detecting lead toxicity in children;

(2) provide for the development of improved methods of assessing the prevalence of lead poisoning, including such methods as may be necessary to conduct individual assessments for each State;

(3) provide for the collection of data on the incidence and prevalence of lead poisoning of infants and children, on the demographic characteristics of infants and children with such poisoning (including racial and ethnic status), and on the source of payment for treatment for such poisoning (including the extent to which insurance has paid for such treatment); and

(4) provide for any applied research necessary to improve the effectiveness of programs for the prevention of lead poisoning in infants and children.

COLLECTION OF DATA ON BIRTH DEFECTS

SEC. 317C. (a) STATE PROGRAMS.—

(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall encourage States to establish or improve programs for the collection and analysis of epidemiological data on birth defects.

(2) Provision of assistance The Secretary may, directly or through grants, cooperative agreements, or contracts, provide assistance to States regarding the purpose specified in subsection (a).[1]

(b) NATIONAL CLEARINGHOUSE.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish and maintain a National Information Clearinghouse on Birth Defects to collect and disseminate to health professionals and the general public information on birth defects, including the prevention of such defects.

(c) REPORT.—Not later than July 1, 1993, and biennially thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report describing activities carried out under this section and containing any recommendations of the Secretary regarding this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $5,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

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[1] So in original. Probably should be "paragraph (1)."

SEC. 399. [280C-6] PROJECTS TO IMPROVE MATERNAL, INFANT, AND CHILD HEALTH.

(a) IN GENERAL.—

(1) ESTABLISHMENT OF PROGRAM.—The secretary, acting through the Administrator of the Health Resources and Services Administration, shall make grants to eligible entities to pay the Federal share of the cost of providing the services specified in subsection (b) to families in which a member is—

(A) a pregnant woman at risk of delivering an infant with a health or developmental complication; or

(B) a child less than 3 years of age—

(i) who is experiencing or is at risk of a health or developmental complication, or of child abuse or neglect; or

(ii) who has been prenatally exposed to maternal substance abuse.

(2) MINIMUM PERIOD OF AWARDS; ADMINISTRATIVE CONSULTATIONS.—

(A) The Secretary shall award grants under paragraph (1) for periods of at least three years.

(B) The Administrator of the Administration for Children, Youth, and Families and the Director of the National Commission to Prevent Infant Mortality shall be consulted regarding the promulgation of program guidelines and funding priorities under this section.

(3) REQUIREMENT OF STATUS AS MEDICAID PROVIDER.—

(A) Subject to subparagraph (B), the Secretary may make a grant under paragraph (1) only if, in the case of any service under such paragraph that is covered in the State plan approved under title XIX of the Social Security Act for the State involved—

(i) the entity involved will provide the service directly, and the entity has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(ii) the entity will enter into an agreement with an organization under which the organization will provide the service, and the organization has entered into such a participation agreement and is qualified to receive such payments.

(B)(i) In the case of an organization making an agreement under subparagraph (A)(ii) regarding the provision of services under paragraph (1), the requirement established in such subparagraph regarding a participation agreement shall be waived by the Secretary if the organization does not, in providing health or mental health services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any

Federal or State health benefits program.

(ii) A determination by the Secretary of whether an organization referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the organization accepts voluntary donations regarding the provision of services to the public.

(b) HOME VISITING SERVICES FOR ELIGIBLE FAMILIES.—With respect to an eligible family, each of the following services shall, directly or through arrangement with other public or nonprofit private entities, be available (as applicable to the family member involved) in each project operated with a grant under subsection (a):

(1) Prenatal and postnatal health care.

(2) Primary health care for the children, including developmental assessments.

(3) Education for the parents concerning infant care and child development, including the development and utilization of parent and teacher resource networks and other family resource and support networks where such networks are available.

(4) Upon the request of a parent, providing the education described in paragraph (3) to other individuals who have responsibility for caring for the children.

(5) Education for the parents concerning behaviors that adversely affect health.

(6) Assistance in obtaining necessary health, mental health, developmental, social, housing, and nutrition services and other assistance, including services and other assistance under maternal and child health programs; the special supplemental nutrition program for women, infants, and children; section 17 of the Child Nutrition Act of 1966; title V of the Social Security Act; title XIX of such Act (including the program for early and periodic screening, diagnostic, and treatment services described in section 1905(r) of such Act); titles IV and XIX of the Social Security Act; housing programs; other food assistance programs; and appropriate alcohol and drug dependency treatment programs, according to need.

(c) CONSIDERATIONS IN MAKING GRANTS.—In awarding grants under subsection (a), the Secretary shall take into consideration—

(1) the ability of the entity involved to provide, either directly or through linkages, a broad range of preventive and primary health care services and related social, family support, and developmental services;

(2) different combinations of professional and lay home visitors utilized within programs that are reflective of the identified service needs and characteristics of target populations.

(3) the extent to which the population to be targeted has limited access to health care, and related social, family

support, and developmental services; and

(4) whether such grants are equitably distributed among urban and rural settings and whether entities serving Native American communities are represented among the grantees.

(d) FEDERAL SHARE.—With respect to the costs of carrying out a project under subsection (a), a grant under such subsection for the project may not exceed 90 percent of such costs. To be eligible to receive such a grant, an applicant must provide assurances that the applicant will obtain at least 10 percent of such costs from non-Federal funds (and such contributions to such costs may be in cash or in-kind, including facilities and personnel).

(e) RULE OF CONSTRUCTION REGARDING AT-RISK BIRTHS.—For purposes of subsection (a)(1), a pregnant woman shall be considered to be at risk of delivering an infant with a health or developmental complication if during the pregnancy the woman—

(1) lacks appropriate access to, or information concerning, early and routine prenatal care;

(2) lacks the transportation necessary to gain access to the services described in subsection (b);

(3) lacks appropriate child care assistance, which results in impeding the ability of such woman to utilize health and related social services;

(4) is fearful of accessing substance abuse services or child and family support services; or

(5) is a minor with a low income.

(f) DELIVERY OF SERVICES AND CASE MANAGEMENT.—

(1) CASE MANAGEMENT MODEL.—Home visiting services provided under this section shall be delivered according to a case management model, and a registered nurse, licensed social worker, or other licensed health care professional with experience and expertise in providing health and related social services in home and community settings shall be assigned as the case manager for individual cases under such model.

(2) CASE MANAGER.—A case manager assigned under paragraph (1) shall have primary responsibility for coordinating and overseeing the development of a plan for each family that is to receive home visiting services under this section, and for coordinating the delivery of such services provided through appropriate personnel.

(3) APPROPRIATE PERSONNEL.—In determining which personnel shall be utilized in the delivery of services, the case manager shall consider—

(A) the stated objective of the project to be operated with the grant, as determined after considering identified gaps in the current service delivery system; and

(B) the nature of the needs of the family to be served, as determined at the initial assessment of the family that is conducted by the case manager, and through follow-up contacts by other providers of home visiting services.

(4) FAMILY SERVICE PLAN.—A case manager, in consultation with a team established in accordance with paragraph (5) for the family involved, shall develop a plan for the family following the initial visit to the home of the family. Such plan shall reflect—

(A) an assessment of the health and related social service needs of the family;

(B) a structured plan for the delivery of home visiting services to meet the identified needs of the family;

(C) the frequency with which such services are to be provided to the family;

(D) ongoing revisions made as the needs of family members change; and

(E) the continuing voluntary participation of the family in the plan.

(5) HOME VISITING SERVICES TEAM.—The team to be consulted under paragraph (4) on behalf of a family shall include, as appropriate, other nursing professionals, physician assistants, social workers, child welfare professionals, infant and early childhood specialists, nutritionists, and lay persons trained as home visitors. The case manager shall ensure that the plan is coordinated with those physician services that may be required by the mother or child.

(g) OUTREACH.—Each grantee under subsection (a) shall provide outreach and casefinding services to inform eligible families of the availability of home visiting services from the project.

(h) CONFIDENTIALITY.—In accordance with applicable State law, an entity receiving a grant under subsection (a) shall maintain confidentiality with respect to services provided to families under this section.

(i) CERTAIN ASSURANCES.—The Secretary may award a grant under subsection (a) only if the entity involved provides assurances satisfactory to the Secretary that—

(1) the entity will provide home visiting services with reasonable frequency—

(A) to families with pregnant women, as early in the pregnancy as is practicable, and until the infant reaches at least 2 years of age; and

(B) to other eligible families for at least 2 years; and

(2) the entity will coordinate with public health and related social service agencies to prevent duplication of effort and improve the delivery of comprehensive health and related social services.

(j) SUBMISSION TO SECRETARY OF CERTAIN INFORMATION.—The Secretary may award a grant under subsection (a) only if the entity involved submits to the Secretary—

(1) a description of the population to be targeted for home visiting services and methods of outreach and casefinding for

identifying eligible families, including the use of lay home visitors where appropriate;

(2) a description of the types and qualifications of home visitors used by the entity and the process by which the entity will provide continuing training and sufficient support to the home visitors; and

(3) such other information as the Secretary determines to be appropriate.

(k) LIMITATION REGARDING ADMINISTRATIVE EXPENSES.—Not more than 10 percent of a grant under subsection (a) may be expended for administrative expenses with respect to the grant. The costs of training individuals to serve in the project involved are not subject to the preceding sentence.

(l) RESTRICTIONS ON USE OF GRANT.—To be eligible to receive a grant under this section, an entity must agree that the grant will not be expended—

(1) to provide inpatient hospital services;

(2) to make cash payments to intended recipients of services;

(3) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

(5) to provide financial assistance to any entity other than a public or nonprofit private entity.

(m) REPORTS TO SECRETARY.—To be eligible to receive a grant under this section, an entity must agree to submit an annual report on the services provided under this section to the Secretary in such manner and containing such information as the Secretary by regulation requires. At a minimum, the entity shall report information concerning eligible families, including—

(1) the characteristics of the families and children receiving services under this section;

(2) the usage, nature, and location of the provider, of preventive health services, including prenatal, primary infant, and child health care;

(3) the incidence of low birthweight and premature infants;

(4) the length of hospital stays for pre- and post-partum women and their children;

(5) the incidence of substantiated child abuse and neglect for all children within participating families;

(6) the number of emergency room visits for routine health care;

(7) the source of payment for health care services and the extent to which the utilization of health care services, other than routine screening and medical care, available to the individuals under the program established under title XIX of

the Social Security Act, and under other Federal, State, and local programs, is reduced;

(8) the number and type of referrals made for health and related social services, including alcohol and drug treatment services, and the utilization of such services provided by the grantee; and

(9) the incidence of developmental disabilities.

(n) REQUIREMENT OF APPLICATION.—The Secretary may make a grant under subsection (a) only if—

(1) an application for the grant is submitted to the Secretary;

(2) the application contains the agreements and assurances required in this section, and the information required in subsection (j);

(3) the application contains evidence that the preparation of the application has been coordinated with the State agencies responsible for maternal and child health and child welfare, and coordinated with services provided under part H of the Individuals with Disabilities Education Act; and

(4) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(o) PEER REVIEW.—

(1) REQUIREMENT.—In making determinations for awarding grants under subsection (a), the Secretary shall rely on the recommendations of the peer review panel established under paragraph (2).

(2) COMPOSITION.—The Secretary shall establish a review panel to make recommendations under paragraph (1) that shall be composed of—

(A) national experts in the fields of maternal and child health, child abuse and neglect, and the provision of community-based primary health services; and

(B) representatives of relevant Federal agencies, including the Health Resources and Services Administration, the Substance Abuse and Mental Health Services Administration, the Administration for Children, Youth, and Families, the U.S. Advisory Board on Child Abuse and Neglect and the National Commission to Prevent Infant Mortality.

(p) EVALUATIONS.—

(1) IN GENERAL.—The Secretary shall, directly or through contracts with public or private entities—

(A) conduct evaluations to determine the effectiveness of projects under subsection (a) in reducing the incidence of children born with health or developmental complications, the incidence among children less than 3 years of age of such complications, and the incidence of child abuse and neglect; and

(B) not less than once during each 3-year period, Prepare and submit to the appropriate committees of Congress a report concerning the results of such evaluations.

(2) CONTENTS.—The evaluations conducted under paragraph (1) shall—

(A) include a summary of the data contained in the annual reports submitted under subsection (m);

(B) assess the relative effectiveness of projects under subsection (a) in urban and rural areas, and among programs utilizing differing combinations of professionals and trained home visitors recruited from the community to meet the needs of defined target service populations; and

(C) make further recommendations necessary or desirable to increase the effectiveness of such projects.

(q) DEFINITIONS.—For purposes of this section:

(1) The term "eligible entity" includes public and nonprofit private entities that provide health or related social services, including community-based organizations, visiting nurse organizations, hospitals, local health departments, community health centers, Native Hawaiian health centers, nurse managed clinics, family service agencies, child welfare agencies, developmental service providers, family resource and support programs, and resource mothers projects.

(2) The term "eligible family" means a family described in subsection (a).

(3) The term "health or developmental complication", with respect to a child, means—

(A) being born in an unhealthy or potentially unhealthy condition, including premature birth, low birthweight, and prenatal exposure to maternal substance abuse;

(B) a condition arising from a condition described in subparagraph (A);

(C) a physical disability or delay; and

(D) a developmental disability or delay.

(4) The term "home visiting services" means the services specified in subsection (b), provided at the residence of the eligible family involved or provided pursuant to arrangements made for the family (including arrangements for services in community settings).

(5) The term "home visitors" means providers of home visiting services.

(r) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $30,000,000 for each of the fiscal years 1993 and 1994.

GRANTS FOR SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS

SEC. 399D. (a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make grants to public and nonprofit private entities for the purpose of carrying out programs—

(A) to provide the services described in subsection (b) of this section to children of substance abusers;

(B) to provide the applicable services described in subsection (c) of this section to families in which a member is a substance abuser; and

(C) to identify such children and such families.

(2) ADMINISTRATIVE CONSULTATIONS.—The Administrator of the Administration for Children, Youth, and Families and the Administrator of the Substance Abuse and Mental Health Services Administration shall be consulted regarding the promulgation of program guidelines and funding priorities under this section.

(3) REQUIREMENT OF STATUS AS MEDICAID PROVIDER.—

(A) Subject to subparagraph (B), the Secretary may make a grant under paragraph (1) only if, in the case of any service under such paragraph that is covered in the State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for the State involved—

(i) the entity involved will provide the service directly, and the entity has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(ii) the entity will enter into an agreement with an organization under which the organization will provide the service, and the organization has entered into such a participation agreement and is qualified to receive such payments.

(B)(i) In the case of an organization making an agreement under subparagraph (A)(ii) regarding the provision of services under paragraph (1), the requirement established in such subparagraph regarding a participation agreement shall be waived by the Secretary if the organization does not, in providing health or mental health services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

(ii) A determination by the Secretary of whether an organization referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the organization accepts voluntary donations regarding the provision of services to the public.

(b) SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS.—The Secretary may make a grant under subsection (a) of this section only if the applicant involved agrees to make available (directly or through agreements with other entities) to children of substance abusers each of the following services:

(1) Periodic evaluation of children for developmental, psychological, and medical problems.

(2) Primary pediatric care.

(3) Other necessary health and mental health services.

(4) Therapeutic intervention services for children, including provision of therapeutic child care.

(5) Preventive counseling services.

(6) Counseling related to the witnessing of chronic violence.

(7) Referrals for, and assistance in establishing eligibility for, services provided under—

(A) education and special education programs;

(B) Head Start programs established under the Head Start Act (42 U.S.C. 9831 et seq.);

(C) other early childhood programs;

(D) employment and training programs;

(E) public assistance programs provided by Federal, State, or local governments; and

(F) programs offered by vocational rehabilitation agencies, recreation departments, and housing agencies.

(8) Additional developmental services that are consistent with the provision of early intervention services, as such term is defined in part H of the Individuals with Disabilities Education Act (20 U.S.C. 1471 et seq.).

(c) SERVICES FOR AFFECTED FAMILIES.—The Secretary may make a grant under subsection (a) of this section only if, in the case of families in which a member is a substance abuser, the applicant involved agrees to make available (directly or through agreements with other entities) each of the following services, as applicable to the family member involved:

(1) Services as follows, to be provided by a public health nurse, social worker, or similar professional, or by a trained worker from the community who is supervised by a professional:

(A) Counseling to substance abusers on the benefits and availability of substance abuse treatment services and services for children of substance abusers.

(B) Assistance to substance abusers in obtaining and using substance abuse treatment services and in obtaining the services described in subsection (b) of this section for their children.

(C) Visiting and providing support to substance abusers, especially pregnant women, who are receiving substance abuse treatment services or whose children are receiving services under subsection (b) of this section.

(2) In the case of substance abusers:

(A) Encouragement and, where necessary, referrals to participate in appropriate substance abuse treatment.

(B) Primary health care and mental health services, including prenatal and post partum care for pregnant women.

(C) Consultation and referral regarding subsequent pregnancies and life options, including education and career planning.

(D) Where appropriate, counseling regarding family conflict and violence.

(E) Remedial education services.

(F) Referrals for, and assistance in establishing eligibility for, services described in subsection (b)(7) of this section.

(3) In the case of substance abusers, spouses of substance abusers, extended family members of substance abusers, caretakers of children of substance abusers, and other people significantly involved in the lives of substance abusers or the children of substance abusers:

(A) An assessment of the strengths and service needs of the family and the assignment of a case manager who will coordinate services for the family.

(B) Therapeutic intervention services, such as parental counseling, joint counseling sessions for families and children, and family therapy.

(C) Child care or other care for the child to enable the parent to attend treatment or other activities and respite care services.

(D) Parenting education services and parent support groups.

(E) Support services, including, where appropriate, transportation services.

(F) Where appropriate, referral of other family members to related services such as job training.

(G) Aftercare services, including continued support through parent groups and home visits.

(d) CONSIDERATIONS IN MAKING GRANTS.—In making grants under subsection (a) of this section, the Secretary shall ensure that the grants are reasonably distributed among the following types of entities:

(1) Alcohol and drug treatment programs, especially those providing treatment to pregnant women and mothers and their children.

(2) Public or nonprofit private entities that provide health or social services to disadvantaged populations, and that have—

(A) expertise in applying the services to the particular problems of substance abusers and the children of substance abusers; and

(B) an affiliation or contractual relationship with one or more substance abuse treatment programs.

(3) Consortia of public or nonprofit private entities that include at least one substance abuse treatment program.

(4) Indian tribes.

(e) FEDERAL SHARE.—The Federal share of a program carried out under subsection (a) of this section shall be 90 percent. The Secretary shall accept the value of in-kind contributions, including facilities and personnel, made by the grant recipient as a part or all of the non-Federal share of grants.

(f) COORDINATION WITH OTHER PROVIDERS.—The Secretary may make a grant under subsection (a) of this section only if the applicant involved agrees to coordinate its activities with those of the State lead agency, and the State Interagency Coordinating Council, under part H of the Individuals with Disabilities Education Act (20 U.S.C. 1471 et seq.).

(g) RESTRICTIONS ON USE OF GRANT.—The Secretary may make a grant under subsection (a) of this section only if the applicant involved agrees that the grant will not be expended—

(1) to provide inpatient hospital services;

(2) to make cash payments to intended recipients of services;

(3) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

(5) to provide financial assistance to any entity other than a public or nonprofit private entity.

(h) SUBMISSION TO SECRETARY OF CERTAIN INFORMATION.—The Secretary may make a grant under subsection (a) of this section only if the applicant involved submits to the Secretary—

(1) a description of the population that is to receive services under this section and a description of such services that are to be provided and measurable goals and objectives;

(2) a description of the mechanism that will be used to involve the local public agencies responsible for health, mental health, child welfare, education, juvenile justice, developmental disabilities, and substance abuse treatment programs in planning and providing services under this section, as well as evidence that the proposal has been coordinated with the State agencies responsible for administering those programs and the State agency responsible for administering public maternal and child health services;

(3) information demonstrating that the applicant has

established a collaborative relationship with child welfare agencies and child protective services that will enable the applicant, where appropriate, to—

(A) provide advocacy on behalf of substance abusers and the children of substance abusers in child protective services cases;

(B) provide services to help prevent the unnecessary placement of children in substitute care; and

(C) promote reunification of families or permanent plans for the placement of the child; and

(4) such other information as the Secretary determines to be appropriate.

(i) REPORTS TO SECRETARY.—The Secretary may make a grant under subsection (a) of this section only if the applicant involved agrees that for each fiscal year for which the applicant receives such a grant the applicant, in accordance with uniform standards developed by the Secretary, will submit to the Secretary a report containing—

(1) a description of specific services and activities provided under the grant;

(2) information regarding progress toward meeting the program's stated goals and objectives;

(3) information concerning the extent of use of services provided under the grant, including the number of referrals to related services and information on other programs or services accessed by children, parents, and other caretakers;

(4) information concerning the extent to which parents were able to access and receive treatment for alcohol and drug abuse and sustain participation in treatment over time until the provider and the individual receiving treatment agree to end such treatment, and the extent to which parents re-enter treatment after the successful or unsuccessful termination of treatment;

(5) information concerning the costs of the services provided and the source of financing for health care services;

(6) information concerning—

(A) the number and characteristics of families, parents, and children served, including a description of the type and severity of childhood disabilities, and an analysis of the number of children served by age;

(B) the number of children served who remained with their parents during the period in which entities provided services under this section;

(C) the number of children served who were placed in out-of-home care during the period in which entities provided services under this section;

(D) the number of children described in subparagraph (C) who were reunited with their families; and

(E) the number of children described in subparagraph

(C) for whom a permanent plan has not been made or for whom the permanent plan is other than family reunification;

(7) information on hospitalization or emergency room use by the family members participating in the program; and

(8) such other information as the Secretary determines to be appropriate.

(j) REQUIREMENT OF APPLICATION.—The Secretary may make any grant under subsection (a) of this section only if—

(1) an application for the grant is submitted to the Secretary; or

(2) the application contains the agreements required in this section and the information required in subsection (h) of this section; and

(3) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(k) PEER REVIEW.—

(1) REQUIREMENT. In making determinations for awarding grants under subsection (a) of this section, the Secretary shall rely on the recommendations of the peer review panel established under paragraph (2).

(2) COMPOSITION. The Secretary shall establish a review panel to make recommendations under paragraph (1) that shall be composed of—

(A) national experts in the fields of maternal and child health, substance abuse treatment, and child welfare; and

(B) representatives of relevant Federal agencies, including the Health Resources and Services Administration, the Substance Abuse and Mental Health Services Administration, and the Administration for Children, Youth, and Families.

(l) EVALUATIONS.—The Secretary shall periodically conduct evaluations to determine the effectiveness of programs supported under subsection (a) of this section—

(1) in reducing the incidence of alcohol and drug abuse among substance abusers participating in the programs;

(2) in preventing adverse health conditions in children of substance abusers;

(3) in promoting better utilization of health and developmental services and improving the health, developmental, and psychological status of children receiving services under the program;

(4) in improving parental and family functioning;

(5) in reducing the incidence of out-of-home placement for children whose parents receive services under the program; and

(6) in facilitating the reunification of families after children

have been placed in out-of-home care.

(m) REPORT TO CONGRESS.—Not later than 2 years after the date on which amounts are first appropriated under subjection (o)[1] of this section, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report that contains a description of programs carried out under this section. At a minimum, the report shall contain—

(1) information concerning the number and type of programs receiving grants;

(2) information concerning the type and use of services offered;

(3) information concerning—

(A) the number and characteristics of families, parents, and children served;

(B) the number of children served who remained with their parents during or after the period in which entities provided services under this section;

(C) the number of children served who were placed in out-of-home care during the period in which entities provided services under this section;

(D) the number of children described in subparagraph (C) who were reunited with their families; and

(E) the number of children described in subparagraph (C) who were permanently placed in out-of-home care;

analyzed by the type of entity described in subsection (d) of this section that provided services;

(4) an analysis of the access provided to, and use of, related services and alcohol and drug treatment through programs carried out under this section; and

(5) a comparison of the costs of providing services through each of the types of entities described in subsection (d) of this section.

(n) DATA COLLECTION.—The Secretary shall periodically collect and report on information concerning the numbers of children in substance abusing families, including information on the age, gender and ethnicity of the children, the composition and income of the family, and the source of health care finances.

(o) DEFINITIONS.—For purposes of this section:

(1) The term "caretaker", with respect to a child of a substance abuser, means any individual acting in a parental role regarding the child (including any birth parent, foster parent, adoptive parent, relative of such a child, or other individual acting in such a role).

(2) The term "children of substance abusers" means—

(A) children who have lived or are living in a household with a substance abuser who is acting in a parental role regarding the children; and

(B) children who have been prenatally exposed to alcohol or other dangerous drugs.

(3) The term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(4) The term "public or nonprofit private entities that provide health or social services to disadvantaged populations" includes community-based organizations, local public health departments, community action agencies, hospitals, community health centers, child welfare agencies, developmental disabilities service providers, and family resource and support programs.

(5) The term "substance abuse" means the abuse of alcohol or other drugs.

(p) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS. For the purpose of carrying out this section, there are authorized to be appropriated $50,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

(2) CONTINGENT AUTHORITY REGARDING TRAINING OF CERTAIN INDIVIDUALS. Of the amounts appropriated under paragraph (1) for a fiscal year in excess of $25,000,000, the Secretary may make available not more than 15 percent for the training of health care professionals and other personnel (including child welfare providers) who provide services to children and families of substance abusers.

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[1] So in original. Probably should be subsection.

TITLE X—POPULATION RESEARCH AND VOLUNTARY FAMILY PLANNING PROGRAMS

PROJECT GRANTS AND CONTRACTS FOR FAMILY PLANNING SERVICES

SEC. 1001. (a) AUTHORITY OF SECRETARY.—The Secretary is authorized to make grants to and enter into contracts with public or nonprofit private entities to assist in the establishment and operation of voluntary family planning projects which shall offer a broad range of acceptable and effective family planning methods and services (including natural family planning methods, infertility services, and services for adolescents). To the extent practical, entities which receive grants or contracts under this subsection shall encourage family[1] participation in projects assisted under this subsection.

(b) FACTORS DETERMINING AWARDS; ESTABLISHMENT AND PRESERVATION OF RIGHTS OF LOCAL AND REGIONAL ENTITIES.—In making grants and contracts under this section the Secretary shall take into account the number of patients to be served, the extent to which family planning services are needed locally, the relative need of the applicant, and its capacity to make rapid and effective use of such assistance. Local and regional entities shall be assured the right to apply for direct grants and contracts under this section, and the Secretary shall by regulation fully provide for and protect such right.

(c) REDUCTION OF GRANT AMOUNT.—The Secretary, at the request of a recipient of a grant under subsection (a) of this section, may reduce the amount of such grant by the fair market value of any supplies or equipment furnished the grant recipient by the Secretary. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment on which the reduction of such grant is based. Such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants and contracts under this section, there are authorized to be appropriated $30,000,000 for the fiscal year ending June 30, 1971; $60,000,000 for the fiscal year ending June 30, 1972; $111,500,000 for the fiscal year ending June 30, 1973, $111,500,000 each for the fiscal years ending June 30, 1974, and June 30, 1975; $115,000,000 for fiscal year 1976; $115,000,000 for the fiscal year ending September 30, 1977; $136,400,000 for the fiscal year ending September 30, 1978; $200,000,000 for the fiscal year ending September 30, 1979; $230,000,000 for the fiscal year ending September 30, 1980; $264,500,000 for the fiscal year ending September 30, 1981; $126,510,000 for the fiscal year ending September 30, 1982; $139,200,000 for the fiscal year ending September 30, 1983; $150,830,000 for the fiscal year ending September 30, 1984; and $158,400,000 for the fiscal year ending September 30, 1985.

FORMULA GRANTS TO STATES FOR FAMILY PLANNING SERVICES

SEC. 1002. (a) AUTHORITY OF SECRETARY; PREREQUISITES.—The Secretary is authorized to make grants, from allotments made under subsection (b) of this section, to State health authorities to assist in planning, establishing, maintaining, coordinating, and evaluating family planning services. No grant may be made to a State health authority under this section unless such authority has submitted, and had approved by the Secretary, a State plan for a coordinated and comprehensive program of family planning services.

(b) FACTORS DETERMINING AMOUNT OF STATE ALLOTMENTS.—The sums appropriated to carry out the provisions of this section shall be allotted to the States by the Secretary on the basis of the population and the financial need of the respective States.

(c) "STATE" DEFINED.—For the purposes of this section, the term "State" includes the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, the District of Columbia, and the Trust Territory of the Pacific Islands.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under this section, there are authorized to be appropriated $10,000,000 for the fiscal year ending June 30, 1971; $15,000,000 for the fiscal year ending June 30, 1972; and $20,000,000 for the fiscal year ending June 30, 1973.

TRAINING GRANTS AND CONTRACTS; AUTHORIZATION OF APPROPRIATIONS

SEC. 1003. (a) The Secretary is authorized to make grants to public or nonprofit private entities and to enter into contract with public or private entities and individuals to provide the training for personnel to carry out family planning service programs described in section 300 or 300a of this title.

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1971; $3,000,000 for the fiscal year ending June 30, 1972; $4,000,000 for the fiscal year ending June 30, 1973; $3,000,000 each for the fiscal years ending June 30, 1974 and June 30, 1975; $4,000,000 for fiscal year ending 1976; $5,000,000 for the fiscal year ending September 30, 1977; $3,000,000 for the fiscal year ending September 30, 1978; $3,100,000 for the fiscal year ending September 30, 1979; $3,600,000 for the fiscal year ending September 30, 1980; $4,100,000 for the fiscal year ending September 30, 1981; $2,920,000 for the fiscal year ending September 30, 1982; $3,200,000 for the fiscal year ending September 30, 1983; $3,500,000 for the fiscal year ending

September 30, 1984, and $3,500,000 for the fiscal year ending September 30, 1985.

RESEARCH

SEC. 1004. The Secretary may—

(1) conduct, and

(2) make grants to public or nonprofit private entities and enter into contracts with public or private entities and individuals for projects for, research in the biomedical, contraceptive development, behavioral, and program implementation fields related to family planning and population.

INFORMATIONAL AND EDUCATIONAL MATERIALS

SEC. 1005. (a) The Secretary is authorized to make grants to public or nonprofit private entities and to enter into contracts with public or private entities and individuals to assist in developing and making available family planning and population growth information (including educational materials) to all persons desiring such information (or materials).

(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $750,000 for the fiscal year ending June 30, 1971; $1,000,000 for the fiscal year ending June 30, 1972; $1,250,000 for the fiscal year ending June 30, 1973; $909,000 each for the fiscal years ending June 30, 1974, and June 30, 1975; $2,000,000 for fiscal year 1976; $2,500,000 for the fiscal year ending September 30, 1977; $600,000 for the fiscal year ending September 30, 1978; $700,000 for the fiscal year ending September 30, 1979; $805,000 for the fiscal year ending September 30, 1980; $926,000 for the fiscal year ending September 30, 1981; $570,000 for the fiscal year ending September 30, 1982; $600,000 for the fiscal year ending September 30, 1983; $670,000 for the fiscal year ending September 30, 1984; and $700,000 for the fiscal year ending September 30, 1985.

REGULATIONS AND PAYMENTS

SEC. 1006. (a) PROMULGATION OF REGULATIONS GOVERNING EXECUTION; AMOUNT OF GRANTS.—Grants and contracts made under this subchapter shall be made in accordance with such regulations as the Secretary may promulgate. The amount of any grant under any section of this subchapter shall be determined by the Secretary; except that no grant under any such section for any program or project for a fiscal year beginning after June 30, 1975, may be made for less than 90 per centum of its costs (as determined under regulations of the Secretary) unless the grant is to be made for a program or project for which a grant was made (under the same section) for the fiscal year ending June 30, 1975, for less than 90 per centum of its costs (as so determined), in which case a grant under such section for that program or project for a fiscal year beginning after that date may be made for a percentage which shall not be less than the percentage of its costs for which the fiscal year 1975 grant was made.

(b) PAYMENT OF GRANTS.—Grants under this subchapter shall be payable in such installments and subject to such conditions as the Secretary may determine to be appropriate to assure that such grants will be effectively utilized for the purposes for which made.

(c) PREREQUISITES; "LOW-INCOME FAMILY" DEFINED.—A grant may be made or contract entered into under section 300 or 300a of this title for a family planning service project or program only upon assurances satisfactory to the Secretary that—

(1) priority will be given in such project or program to the furnishing of such services to persons from low-income families; and

(2) no charge will be made in such project or program for services provided to any person from a low-income family except to the extent that payment will be made by a third party (including a government agency) which is authorized or is under legal obligation to pay such charge. For purposes of this subsection, the term "low-income family" shall be defined by the Secretary in accordance with such criteria as he may prescribe so as to insure that economic status shall not be a deterrent to participation in the programs assisted under this subchapter.

(d) SUITABILITY OF INFORMATIONAL OR EDUCATIONAL MATERIALS.—

(1) A grant may be made or a contract entered into under section 300 or 300a-3 of this title only upon assurances satisfactory to the Secretary that informational or educational materials developed or made available under the grant or contract will be suitable for the purposes of this subchapter and for the population or community to which they are to be made available, taking into account the educational and cultural background of the individuals to whom such materials are addressed and the standards of such population or community with respect to such materials.

(2) In the case of any grant or contract under section 300 of this title, such assurances shall provide for the review and approval of the suitability of such materials, prior to their distribution, by an advisory committee established by the grantee or contractor in accordance with the Secretary's regulations. Such a committee shall include individuals broadly representative of the population or community to which the materials are to be made available.

VOLUNTARY PARTICIPATION

SEC. 1007. The acceptance by any individual of family planning services or family planning or population growth information (including educational materials) provided through financial assistance under this subchapter (whether by grant or contract) shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program of the entity or individual that provided such service or information.

PROHIBITION OF ABORTION

SEC. 1008. None of the funds appropriated under this subchapter shall be used in programs where abortion is a method of family planning.

PLANS AND REPORTS

SEC. 1009. (a) SUBMISSION OF REPORT TO CONGRESS; PURPOSES OF PLAN.—Not later than seven months after the close of each fiscal year, the Secretary shall make a report to the Congress setting forth a plan to be carried out over the next five fiscal years for—

(1) extension of family planning services to all persons desiring such services,

(2) family planning and population research programs,

(3) training of necessary manpower for the programs authorized by this subchapter and other Federal laws for which the Secretary has responsibility and which pertain to family planning, and

(4) carrying out the other purposes set forth in this subchapter and the Family Planning Services and Population Research Act of 1970.

(b) MINIMUM REQUIREMENTS FOR PLAN.—Such a plan shall, at a minimum, indicate on a phased basis—

(1) the number of individuals to be served by family planning programs under this subchapter and other Federal laws for which the Secretary has responsibility, the types of family planning and population growth information and educational materials to be developed under such laws and how they will be made available, the research goals to be reached under such laws, and the manpower to be trained under such laws;

(2) an estimate of the costs and personnel requirements needed to meet the purposes of this subchapter and other Federal laws for which the Secretary has responsibility and which pertain to family planning programs; and

(3) the steps to be taken to maintain a systematic reporting system capable of yielding comprehensive data on which service figures and program evaluations for the Department of

Health and Human Services shall be based.

(c) CONTENTS OF REPORT.—Each report submitted under subsection (a) of this section shall—

(1) compare results achieved during the preceding fiscal year with the objectives established for such year under the plan contained in the previous such report;

(2) indicate steps being taken to achieve the objectives during the fiscal years covered by the plan contained in such report and any revisions to plans in previous reports necessary to meet these objectives; and

(3) make recommendations with respect to any additional legislative or administrative action necessary or desirable in carrying out the plan contained in such report.

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[1] So in original. Probably should be "family".

TITLE XVII—HEALTH INFORMATION AND HEALTH PROMOTION

OFFICE OF ADOLESCENT HEALTH

SEC. 1708. [300u-7] (a) IN GENERAL.—There is established an Office of Adolescent Health within the Office of the Assistant Secretary for Health, which office shall be headed by a director appointed by the Secretary. The Secretary shall carry out this section acting through the Director of such Office.

(b) DUTIES.—With respect to adolescent health, the Secretary shall—

(1) coordinate all activities within the Department of Health and Human Services that relate to disease prevention, health promotion, preventive health services, and health information and education with respect to the appropriate use of health care, including coordinating—

(A) the design of programs, support for programs, and the evaluation of programs;

(B) the monitoring of trends;

(C) projects of research (including multidisciplinary projects) on adolescent health; and

(D) the training of health providers who work with adolescents, particularly nurse practitioners, physician assistants, and social workers;

(2) coordinate the activities described in paragraph (1) with similar activities in the private sector; and

(3) support projects, conduct research, and disseminate information relating to preventive medicine, health promotion, and physical fitness and sports medicine.

(c) CERTAIN DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—In carrying out subsection (b)(3), the Secretary may make grants to carry out demonstration projects for the purpose of improving adolescent health, including projects to train health care providers in providing services to adolescents and projects to reduce the incidence of violence among adolescents, particularly among minority males.

(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated $5,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

(d) INFORMATION CLEARINGHOUSE.—In carrying out subsection (b), the Secretary shall establish and maintain a National Information Clearinghouse on Adolescent Hearth to collect and disseminate to health professionals and the general public information on adolescent health.

(e) NATIONAL PLAN.—In carrying out subsection (b), the

Secretary shall develop a national plan for improving adolescent health. The plan shall be consistent with the applicable objectives established by the Secretary for the health status of the people of the United States for the year 2000, and shall be periodically reviewed, and as appropriate, revised. The plan, and any revisions in the plan, shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(f) ADOLESCENT HEALTH.—For purposes of this section, the term "adolescent health", with respect to adolescents of all ethnic and racial groups, means all diseases, disorders, and conditions (including with respect to mental health)—

(1) unique to adolescents, or more serious or more prevalent in adolescents;

(2) for which the factors of medical risk or types of medical intervention are different for adolescents, or for which it is unknown whether such factors or types are different for adolescents; or

(3) with respect to which there has been insufficient clinical research involving adolescents as subjects or insufficient clinical data on adolescents.

TITLE XIX—BLOCK GRANTS

EMERGENCY MEDICAL SERVICES FOR CHILDREN

SEC. 1910. (a) GRANT AUTHORITY.—For activities in addition to the activities which may be carried out by States under section 1904(a)(1)(F), the Secretary may make grants to States or accredited schools of medicine in States to support a program of demonstration projects for the expansion and improvement of emergency medical services for children who need treatment for trauma or critical care. Any grant made under this subsection shall be for not more than a two-year period, subject to annual evaluation by the Secretary. Only one grant under this subsection may be made in a State (to a State or to a school of medicine in such State) in any fiscal year.

(b) RENEWALS.—The Secretary may renew a grant made under subsection (a) of this section for one additional one-year period only if the Secretary determines that renewal of such grant will provide significant benefits through the collection, analysis, and dissemination of information or data which will be useful to States in which grants under such subsection have not been made.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "school of medicine" has the same meaning as in section 701(4); and

(2) the term "accredited" has the same meaning as in section 701(5).

(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $2,000,000 for fiscal year 1985 and for each of the two succeeding fiscal years, $3,000,000 for fiscal year 1989, $4,000,000 for fiscal year 1990, $5,000,000 for each of the fiscal years 1991 and 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1997.

TITLE XXVI—HIV HEALTH CARE SERVICES PROGRAM

SEC. 2671. GRANTS FOR COORDINATED SERVICES AND ACCESS TO RESEARCH FOR WOMEN, INFANTS, CHILDREN, AND YOUTH.

(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with the Director of the National Institutes of Health, shall make grants to public and nonprofit private entities that provide primary care (directly or through contracts) for the following purposes:

(1) Providing through such entities, in accordance with this section, opportunities for women, infants, children, and youth to be voluntary participants in research of potential clinical benefit to individuals with HIV disease.

(2) In the case of women, infants, children, and youth with HIV disease, and the families of such individuals, providing to such individuals—

(A) health care on an outpatient basis; and

(B) additional services in accordance with subsection (d).

(b) PROVISIONS REGARDING PARTICIPATION IN RESEARCH.—

(1) IN GENERAL.—With respect to the projects of research with which an applicant under subsection (a) is concerned, the Secretary may make a grant under such subsection to the applicant only if the following conditions are met:

(A) The applicant agrees to make reasonable efforts—

(i) to identify which of the patients of the applicant are women, infants, children, and youth who would be appropriate participants in the projects;

(ii) to carry out clause (i) through the use of criteria provided for such purpose by the entities that will be conducting the projects of research; and

(iii) to offer women, infants, children, and youth the opportunity to participate in the projects (as appropriate), including the provision of services under subsection (d)(3).

(B) The applicant agrees that, in the case of the research-related functions to be carried out by the applicant pursuant to subsection (a)(1), the applicant will comply with accepted standards that are applicable to such functions (including accepted standards regarding informed consent and other protections for human subjects).

(C) For the first and second fiscal years for which grants under subsection (a) are to be made to the applicant, the applicant agrees that, not later than the end of the second fiscal year of receiving such a grant, a significant number of women, infants, children, and youth who are patients of the applicant will be participating in the projects of research.

(D) Except as provided in paragraph (3) (and paragraph (4), as applicable), for the third and subsequent fiscal years for which such grants are to be made to the applicant, the Secretary has determined that a significant number of such individuals are participating in the projects.

(2) PROHIBITION.—Receipt of services by a patient shall not be conditioned upon the consent of the patient to participate in research.

(3) SIGNIFICANT PARTICIPATION; CONSIDERATION BY SECRETARY OF CERTAIN CIRCUMSTANCES.—In administering the requirement of paragraph (1)(D), the Secretary shall take into account circumstances in which a grantee under subsection (a) is temporarily unable to comply with the requirement for reasons beyond the control of the grantee, and shall in such circumstances provide to the grantee a reasonable period of opportunity in which to reestablish compliance with the requirement.

(4) SIGNIFICANT PARTICIPATION; TEMPORARY WAIVER FOR ORIGINAL GRANTEES.—

(A) IN GENERAL.—In the case of an applicant under subsection (a) who received a grant under such subsection for fiscal year 1995, the Secretary may, subject to subparagraph (B), provide to the applicant a waiver of the requirement of paragraph (1)(D) if the Secretary determines that the applicant is making reasonable progress toward meeting the requirement.

(B) TERMINATION OF AUTHORITY FOR WAIVERS.—The Secretary may not provide any waiver under subparagraph (A) on or after October 1, 1998. Any such waiver provided prior to such date terminates on such date, or on such earlier date as the Secretary may specify.

(c) PROVISIONS REGARDING CONDUCT OF RESEARCH.—

(1) IN GENERAL.—With respect to eligibility for a grant under subsection (a):

(A) A project of research for which subjects are sought pursuant to such subsection may be conducted by the applicant for the grant, or by an entity with which the applicant has made arrangements for purposes of the grant. The grant may not be expended for the conduct of any project of research, except for such research-related functions as are appropriate for providing opportunities under subsection (a)(1) (including the functions specified in subsection (b)(1)).

(B) The grant may be made only if the Secretary makes the following determinations:

(i) The applicant or other entity (as the case may be under subparagraph (A)) is appropriately qualified to conduct the project of research. An entity shall be considered to be so qualified if any research protocol of the entity has been recommended for funding under this Act pursuant to technical and scientific peer review through the National Institutes of Health.

(ii) The project of research is being conducted in accordance with a research protocol to which the Secretary gives priority regarding the prevention or treatment of HIV disease in women, infants, children, or youth, subject to paragraph (2).

(2) LIST OF RESEARCH PROTOCOLS.—

(A) IN GENERAL.—From among the research protocols described in paragraph (1)(B)(ii), the Secretary shall establish a list of research protocols that are appropriate for purposes of subsection (a)(1). Such list shall be established only after consultation with public and private entities that conduct such research, and with providers of services under subsection (a) and recipients of such services.

(B) DISCRETION OF SECRETARY.—The Secretary may authorize the use, for purposes of subsection (a)(1), of a research protocol that is not included on the list under subparagraph (A). The Secretary may waive the requirement specified in paragraph (1)(B)(ii) in such circumstances as the Secretary determines to be appropriate.

(d) ADDITIONAL SERVICES FOR PATIENTS AND FAMILIES.—A grant under subsection (a) may be made only if the applicant for the grant agrees as follows:

(1) The applicant will provide for the case management of the patient involved and the family of the patient.

(2) The applicant will provide for the patient and the family of the patient—

(A) referrals for inpatient hospital services, treatment for substance abuse, and mental health services; and

(B) referrals for other social and support services, as appropriate.

(3) The applicant will provide the patient and the family of the patient with such transportation, child care, and other incidental services as may be necessary to enable the patient and the family to participate in the program established by the applicant pursuant to such subsection.

(e) COORDINATION WITH OTHER ENTITIES.—A grant under subsection (a) may be made only if the applicant for the grant agrees as follows:

(1) The applicant will coordinate activities under the grant with other providers of health care services under this Act, and under title V of the Social Security Act.

(2) The applicant will participate in the statewide coordinated statement of need under part B (where it has been initiated by the public health agency responsible for administering grants under part B) and in revisions of such statement.

(f) APPLICATION.—A grant under subsection (a) may be made only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(g) COORDINATION WITH NATIONAL INSTITUTES OF HEALTH.—The Secretary shall develop and implement a plan that provides for the coordination of the activities of the National Institutes of Health with the activities carried out under this section. In carrying out the preceding sentence, the Secretary shall ensure that projects of research conducted or supported by such Institutes are made aware of applicants and grantees under subsection (a), shall require that the projects, as appropriate, enter into arrangements for purposes of such subsection, and shall require that each project entering into such an arrangement inform the applicant or grantee under such subsection of the needs of the project for the participation of women, infants, children, and youth.

(h) ANNUAL REVIEW OF PROGRAMS; EVALUATIONS.—

(1) REVIEW REGARDING ACCESS TO AND PARTICIPATION IN PROGRAMS.—With respect to a grant under subsection (a) for an entity for a fiscal year, the Secretary shall, not later than 180 days after the end of the fiscal year, provide for the conduct and completion of a review of the operation during the year of the program carried out under such subsection by the entity. The purpose of such review shall be the development of recommendations, as appropriate, for improvements in the following:

(A) Procedures used by the entity to allocate opportunities and services under subsection (a) among patients of the entity who are women, infants, children, or youth.

(B) Other procedures or policies of the entity regarding the participation of such individuals in such program.

(2) EVALUATIONS.—The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of programs carried out pursuant to subsection (a).

(i) TRAINING AND TECHNICAL ASSISTANCE.—Of the amounts appropriated under subsection (j) for a fiscal year, the Secretary may use not more than five percent to provide, directly or through contracts with public and private entities (which may include grantees under subsection (a)), training and technical assistance to assist applicants and grantees under subsection (a) in complying with the requirements of this section.

(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1996 through 2000.

RELATED SECTIONS OF THE CIVIL RIGHTS ACT

THE CIVIL RIGHTS ACT OF 1964

SEC. 601. [42 U.S.C. 2000d] No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

SEC. 602. [42 U.S.C. 2000d-1] Each Federal department and agency which is empowered to extend Federal financial assistance to any program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 601 with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing of a failure to comply with such requirement, but such termination or refusal shall; be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made and, shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however,* That no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

SEC. 603. [42 U.S.C. 2000d-2] Any department or agency action taken pursuant to section 602 shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 602, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with section 10 of the Administrative Procedure Act, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of that section.

SEC. 604. [42 U.S.C. 2000d-3] Nothing contained in this title shall be construed to authorize action under this title by any department or agency with respect to any employment practice of any employer, employment agency, or labor organization except where a primary objective of the Federal financial assistance is to provide employment.

SEC. 605. [42 U.S.C. 2000d-4] Nothing in this title shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

SEC. 606. [42 U.S.C. 2000d-4a] For the purposes of this title, the term "program or activity" and the term "program" mean all of the operations of—

(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government, or

(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government.

(2)(A) a college, university, or other postsecondary institution, or a public system of higher education, or

(B) a local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system.

(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of

the entities described in paragraph (1), (2), or (3);
any part of which is extended Federal financial assistance.

RULES AND REGULATIONS FOR TITLE V OF THE SOCIAL SECURITY ACT

PART 51a—PROJECT GRANTS FOR MATERNAL AND CHILD HEALTH

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51a.2 Definitions.
51a.3 Who is eligible to apply for Federal funding?
51a.4 How is application made for Federal funding?
51a.5 What criteria will DHHS use to decide which projects to fund?
51a.6 What confidentiality requirements must be met?
51a.7 What other DHHS regulations apply?
51a.8 What other conditions apply to these grants?

AUTHORITY: Sec. 1102 of the Social Security Act, 49 Stat. 647 (42 U.S.C. 1302); sec. 502(a), 502(b)(1)(A), and 506(a)(3) of the Social Security Act, 95 Stat. 819-20 (42 U.S.C. 702(a), 702(b)(1)(A) and 706(a)(3)).

SOURCE: 51 FR 7727, Mar. 5, 1986, unless otherwise noted.

§51a.1 To which programs does this regulation apply?

The regulation in this part applies to grants, contracts, and other arrangements under section 502(a) and 502(b)(1)(A) of the Social Security Act, as amended (42 U.S.C. 702(a) and 702(b)(1)(A)), the Maternal and Child Health (MCH) Federal Set-Aside Project grant programs. Section 502(a) authorizes funding for special projects of regional and national significance (SPRANS), research and training projects with respect to maternal and child health and children with special health care needs (including early intervention training and services development); genetic disease testing, counseling and information programs; comprehensive hemophilia diagnostic and treatment centers; projects for screening and follow-up of newborns for sickle cell anemia and other genetic disorders; and special maternal and child health improvement projects. Section 502(b)(1)(A) authorizes funding for projects termed community integrated service system (CISS) projects for the development and expansion of: maternal and infant health home visiting; projects to increase the participation of obstetricians and pediatricians in title V and title XIX programs; integrated maternal and child health service systems; maternal and child health centers operating under the direction of not-for-profit hospitals; rural maternal and child health programs; and outpatient and community-based services programs for children with special health care needs.

[59 FR 36706, July 19, 1994]

§51a.2 Definitions.

Act means the Social Security Act, as amended.

Genetic diseases means inherited disorders caused by the transmission of certain aberrant genes from one generation to another.

Hemophilia means a genetically transmitted bleeding disorder resulting from a deficiency of a plasma clotting factor.

Institution of higher learning means any college or university accredited by a regionalized body or bodies approved for such purpose by the Secretary of Education, and any teaching hospital which has higher learning among its purposes and functions and which has a formal affiliation with an accredited school of medicine and a full-time academic medical staff holding faculty status in such school of medicine.

Secretary means the Secretary of Health and Human Services or his or her designee.

§51a.3 Who is eligible to apply for Federal funding?

(a) With the exception of training and research, as described in paragraph (b) of this section, any public or private entity, including an Indian tribe or tribal organization (as those terms are defined at 25 U.S.C. 450b) is eligible to apply for federal funding under this Part.

(b) Only public or nonprofit private institutions of higher learning may apply for training grants. Only public or nonprofit institutions of higher learning and public or private nonprofit agencies engaged in research or in programs relating to maternal and child health and/or services for children with special health care needs may apply for grants contracts or cooperative agreements for research in maternal and child health services or in services for children with special health care needs.

[59 F R 36706, July 19, 1994]

§51a.4 How is application made for Federal funding?

An application for funding under the MCH Federal Set-Aside project grant programs must be submitted to the Secretary at such time and in such manner as the Secretary may prescribe. It must include a budget and narrative plan of the manner in which the project will meet each of the requirements prescribed by the Secretary. The plan must describe the project in sufficient detail to identify clearly the nature, need, and specific objectives of, and methodology for carrying out, the project.

(Approved by the Office of Management and Budget under control number 0915-0050)

[59 FR 36706, July 19, 1994]

§51a.5 What criteria will DHHS use to decide which projects to fund?

(a) The Secretary will determine the allocation of funds available under sections 602(a) and 602(b)(1)(A) of the Act for each of the activities described in §51a.1.

(b) Within the limit of funds determined by the Secretary to be available for each of the activities described in §51a.1, the Secretary may award Federal funding for projects under this part to applicants which will, in his or her judgment, best promote the purpose of title V of the Social Security Act and address achievement of Healthy Children 2000 objectives[1] taking the following factors into account:

(1) The extent to which the project will contribute to the advancement of maternal and child health and/or improvement of the health of children with special health care needs;

(2) The extent to which the project is responsive to policy concerns applicable to MCH grants and to program objectives, requirements, priorities and/or review criteria for specific project categories, as published in program announcements or guidance materials.

(3) The extent to which the estimated cost to the Government of the project is reasonable, considering the anticipated results;

(4) The extent to which the project personnel are well qualified by training and/or experience for their roles in the project and the applicant organization has adequate facilities and personnel; and

(5) The extent to which, insofar as practicable, the proposed activities, if well executed, are capable of attaining project objectives.

(c) For the following types of CISS projects, preference for funding will be given to qualified applicants in areas with a high infant mortality rate (relative to the latest average infant mortality rate in the United States or in the State in which the area is located):

(1) Projects for the development and expansion of maternal and infant health home visiting;

(2) Projects to increase the participation of obstetricians and pediatricians in title V and title XIX programs;

(3) Integrated maternal and child health service systems;

(4) Maternal and child health centers operating under the direction of not-for-profit hospitals;

(5) Rural maternal and child health programs; and

(6) Outpatient and community-based services for children with special health care needs.

[59 FR 36706, July 19, 1994]

§51a.6 What confidentiality requirements must be met?

All information as to personal facts and circumstances obtained by the project's staff about recipients of services shall be held confidential, and shall not be disclosed without the individual's consent except as may be otherwise required by applicable law or as may be necessary to provide for medical audits by the Secretary with appropriate safeguards for confidentiality of patient records. Otherwise, information may be disclosed only in summary, statistical, or other form which does not identify particular individuals.

§51a.7 What other DHHS regulations apply?

(a) Several other DHHS regulations apply to awards under this part. These include, but are not limited to:

42 CFR Part 50—Policies of general applicability:
Subpart B—Sterilization of persons in federally assisted family planning projects.
Subpart C—Abortions and related medical services in federally assisted programs of the Public Health Service.
Subpart E—Maximum allowable cost for drugs.

45 CFR Part 76—Governmentwide debarment and suspension (nonprocurement) and governmentwide requirements for drug-free workplace (grants).

45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Service— Effectuation of title VI of the Civil Rights Act of 1964.

45 CFR Part 81—Practice and procedure for hearings under Part 80 of this title.

45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance.

45 CFR Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance.

45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance.

45 CFR Part 93—New restrictions on lobbying.

(b) In addition to the above regulations, the following apply to projects funded through grants:

42 CFR Part 50—Policies of general applicability:
Subpart D—Public Health Service grant appeals procedure.

45 CFR Part 16—Procedures of the Departmental Grant Appeals Board.

45 CFR Part 74—Administration of grants to nonprofit organizations.

45 CFR Part 75—Informal grant appeals procedures.

45 CFR Part 92—Administration of grants to State and local

governments.

[59 FR 36707, July 19, 1994]

§51a.8 What other conditions apply to these grants?

(a) Recipients of project grants will be required to submit such additional information to the Secretary on an annual basis as the Secretary determines, including:

(1) the number of individuals served or trained, as appropriate under the project;

(2) a copy of any evaluation conducted by the recipient; and

(3) a list of Healthy Children 2000 objectives addressed by the project and data on how the project contributed toward meeting the objectives.

(b) The Secretary may at the time of award of project grants under this Part impose additional conditions, including conditions governing the use of information or consent forms, when, in the Secretary's judgment, they are necessary to advance the approved program, the interest of public health, or the conservation of grant funds.

[59 F R 36707, July 19, 1994]

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[1] Healthy Children 2000: National Health Promotion and Disease Prevention Objectives Related to Mothers, Infants, Children, Adolescents, and Youth is a special compendium of health status goals and national health objectives affecting mothers, infants, children, adolescents, and youth originally published in Healthy People 2000 in September 1990. Potential applicants may obtain a copy of Healthy People 2000 (Full Report: Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report: Stock No. 017-001-00473-0) through the Superintendent of Documents, Government Printing Office Washington, DC 20402-9325, (telephone: 202 783-3238).

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AUTHORITY: 5 U.S.C. 301.

SOURCE: 53 FR 8079, 8087, Mar. 11, 1988, unless otherwise noted.

EDITORIAL NOTE: For additional information, see related documents published at 49 FR 24958, June 18, 1984, 52 FR 20198, May 29, 1987, and 53 FR 8028, March 11, 1988.

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AUTHORITY: 42 U.S.C. 300w et seq.; 42 U.S.C. 300x et seq.; 42 U.S.C. 300y et seq.; 42 U.S.C. 701 et seq.; 42 U.S.C. 8621 et seq.; 42 U.S.C. 9901 et seq.; 42 U.S.C. 1397 et seq.; 31 U.S.C. 1243 note.

SOURCE: 47 FR 29486, July 6, 1982, unless otherwise noted.

HHS POVERTY GUIDELINES—FEBRUARY 9, 1995 UPDATE

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Annual Update of the HHS Poverty Guidelines

ACTION: Notice.

SUMMARY: This notice provides an update of the HHS poverty guidelines to account for last (calendar) year's increase in prices as measured by the Consumer Price Index.

EFFECTIVE DATE: These guidelines go into effect on the day they are published (unless an office administering a program using the guidelines specifies a different effective date for that particular program).

ADDRESS: Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services (HHS), Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: For information about how the poverty guidelines are used in a particular program, contact the Federal (or other) office which is responsible for that program.

For general information about the poverty guidelines (but not for information about how they are used in a particular program), contact Gordon Fisher, Office of the Assistant Secretary for Planning and Evaluation, HHS-telephone: (202) 690-6141.

For information about the Hill-Burton Uncompensated Services Program (no-fee or reduced-fee health care services at certain hospitals and other health care facilities for certain persons unable to pay for such care), contact the Office of the Director, Division of Facilities Compliance and Recovery, HHS-telephone: (301) 443-5656. The Division of Facilities Compliance and Recovery notes that as set by 42 CFR 124.505(b), the effective date of this update of the poverty guidelines for facilities obligated under the Hill-Burton Uncompensated Services Program is sixty days from the date of this publication.

Under an amendment to the Older Americans Act, the figures in this notice are the figures that state and area agencies on aging should use to determine Greatest economic need" for

Administration on Aging programs. For information about those programs, contact Donald Fowles, Administration on Aging, HHS-telephone: (202) 619-2614.

For information about the Department of Labor's Lower Living Standard Income Level (an alternative eligibility criterion with the poverty guidelines for certain Job Training Partnership Act programs), contact Josephine Nieves, Associate Assistant Secretary for Employment and Training, U.S. Department of Labor-telephone: (202) 219-6236.

For information about the number of persons in poverty or about the Census Bureau (statistical) poverty thresholds, contact Kathleen Short, Chief, Poverty and Wealth Statistics Branch, U.S. Bureau of the Census-telephone: (301) 763-8578.

1995 Poverty Guidelines for all States (Except Alaska and Hawaii) and the District of Columbia

Size of family unit	Poverty guideline
1	$ 7,470
2	10,030
3	12,590
4	15,150
5	17,710
6	20,270
7	22,830
8	25,390

For family units with more than 8 members, add $2,560 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

1995 Poverty Guidelines for Alaska

Size of family unit	Poverty guideline
1	$ 9,340
2	12,540
3	15,740
4	18,940
5	22,140
6	25,340
7	28,540
8	31,740

For family units with more than 8 members, add $3,200 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

1995 Poverty Guidelines for Hawaii

Size of family unit	Poverty guideline
1	$ 8,610
2	11,550
3	14,490
4	17,430
5	20,370
6	23,310
7	26,250
8	29,190

For family units with more than 8 members, add $2,940 for each additional member. (The same increment applies to smaller family sizes also, as can be seen in the figures above.)

The preceding figures are the 1995 update of the poverty guidelines required by sections 652 and 673(2) of [p7773] the Omnibus Budget Reconciliation Act (OBRA) of 1981 (Pub. L. 97-35). As required by laws this update reflects last year's change in the Consumer Price Index (CPI-U); it was done using the same procedure used in previous years.

Section 673(2) of OBRA-1981 (42 U.S.C. 9902(2)) requires the use of the poverty guidelines as an eligibility criterion for the Community Services Block Grant program, while section 652 (42 U.S.C. 9847) requires the use of the poverty guidelines as an eligibility criterion for the Head Start program. The poverty guidelines are also used as an eligibility criterion by a number of other Federal programs (both HHS and non-HHS). When such programs give an OBRA-1981 citation for the poverty guidelines, they cite section 673(2). Due to confusing legislative language dating back to 1972, the poverty guidelines have sometimes been mistakenly referred to as the "OMB" (Office of Management and Budget) poverty guidelines or poverty line. In fact, OMB has never issued the guidelines; the guidelines are issued each year by the Department of Health and Human Services (formerly by the Office of Economic Opportunity/Community Services Administration). The poverty guidelines may be formally referenced as "the poverty guidelines updated annually in the Federal Register by the U.S. Department of Health and Human Services under authority of section 673(2) of the Omnibus Budget Reconciliation Act of 1981."

The poverty guidelines are a simplified version of the Federal Government's statistical poverty thresholds used by the Bureau of the Census to prepare its statistical estimates of the number of persons and families in poverty. The poverty guidelines issued by the Department of Health and Human Services are used for administrative purposes-for instance, for determining whether a person or family is financially eligible for assistance or services under a particular Federal program. The poverty thresholds are used primarily for statistical purposes. Since the poverty guidelines in this notice-the 1995 guidelines-reflect price changes through calendar year 1994, they are approximately equal to the poverty thresholds for calendar year 1994 which the Census Bureau will issue in late summer or autumn 1995.

In certain cases, as noted in the relevant authorizing legislation or program regulations, a program uses the poverty guidelines as only one of several eligibility criteria, or uses a percentage multiple of the guidelines (for example, 130 percent or 185 percent of the guidelines). Some other programs, while not using the guidelines to exclude non-lower-income persons as ineligible, use them for the purpose of giving priority to lower-income persons or families in the provision of assistance or services.

In some cases, these poverty guidelines may not become effective for a particular program until a regulation or notice specifically applying to the program in question has been issued.

The poverty guidelines given above should be used for both farm and nonfarm families. Similarly, these guidelines should be used for both aged and non-aged units. The poverty guidelines have never had an aged/non-aged distinction; only the Census Bureau (statistical)poverty thresholds have separate figures for aged and non-aged one-person and two-person units.

Definitions

There is no universal administrative definition of "income, "family," "family unit," or "household" that is valid for all programs that use the poverty guidelines. Federal programs may use administrative definitions that differ somewhat from the statistical definitions given below; the Federal office which administers a program has the responsibility for making decisions about administrative definitions. Similarly, non-Federal organizations which use the poverty guidelines in non-Federally-funded activities may use administrative definitions that differ from the statistical definitions given below. In either case, to find out the precise definitions used by a particular program, one must consult the office or organization administering the program in question. The following statistical definitions (derived for the most part from language used in U.S. Bureau of the Census, Current Population Reports, Series P60-185 and earlier reports in the same series) are made available for illustrative purposes only.

(a) Family. A family is a group of two or more persons related by birth, marriage, or adoption who live together; all such related persons are considered as members of one family. For instance, if an older married couple, their daughter and her husband and two children, and the older couple's nephew all lived in the same house or apartment, they would all be considered members of a single family.

(b) Unrelated individual. An unrelated individual is a person 15 years old or over (other than an inmate of an institution) who is not living with any relatives. An unrelated individual may be the only person living in a house or apartment, or may be living in a house or apartment (or in group quarters such as a rooming house) in which one or more persons also live who are not related to the individual in question by birth, marriage, or adoption. Examples of unrelated individuals residing with others include a lodger, a foster child, a ward, or an employee.

(c) Household. As defined by the Bureau of the Census for statistical purposes, a household consists of all the persons who occupy a housing unit (house or apartment), whether they are related to each other or not. If a family and an unrelated individual, or two unrelated individuals, are living in the same housing unit, they would constitute two family units (see next item), but only one household. Some programs, such as the food stamp program and the Low-Income Home Energy Assistance Program, employ administrative variations of the "householder concept in determining income eligibility. A number of other programs use administrative variations of the "family" concept in determining income eligibility. Depending on the precise program definition used, programs using a "family" concept would generally apply the poverty guidelines separately to each family and/or unrelated individual within a household if the household includes more than one family and/or unrelated individual.

(d) Family unit. "Family unit" is not an official U.S. Bureau of the Census term, although it has been used in the poverty guidelines Federal Register notice since 1978. As used here, either an unrelated individual or a family (as defined above) constitutes a family unit. In other words, a family unit of size one is an unrelated individual, while a family unit of two/three/etc. is the same as a family of two/three/etc.

(e) Income. Programs which use the poverty guidelines in determining eligibility may use administrative definitions of "income"(or "countable income") which differ from the statistical definition given below. Note that for administrative purposes, in many cases, income data for a part of a year may be annualized in order to determine eligibility-for instance, by multiplying by four the amount of income received during the most recent three months.

For statistical purposes-to determine official income and poverty statistics-the Bureau of the Census defines income to include total annual cash receipts before taxes from all sources, with the exceptions noted below. Income includes money wages and salaries before any deductions; net receipts from nonfarm self-employment [p7774] (receipts from a person's own unincorporated business, professional enterprise, or partnership, after deductions for business expenses); net receipts from farm self-employment (receipts from a farm which one operates as an owner, renter, or sharecropper, after deductions for farm operating expenses); regular payments from social security, railroad retirement, unemployment compensation, strike benefits from union funds, workers' compensation, veterans' payments, public assistance (including Aid to Families with Dependent Children, Supplemental Security Income, Emergency Assistance money payments, and non-Federally-funded General Assistance or General Relief money payments), and training stipends; alimony, child support, and military family allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions (including military retirement pay), and regular insurance or annuity payments; college or university scholarships, grants, fellowships, and assistantships; and dividends, interest, net rental income, net royalties, periodic receipts from estates or trusts, and net gambling or lottery winnings.

For official statistical purposes, income does not include the following types of money received: capital gains; any assets drawn down as withdrawals from a bank, the sale of property, a house, or a car; or tax refunds, gifts, loans, lump-sum inheritances, one-time insurance payments, or compensation for injury. Also excluded are noncash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits, food or housing received in lieu of wages, the value of food and fuel produced and consumed on farms, the imputed value of rent from owner-occupied nonfarm or farm housing, and such Federal noncash benefit programs as Medicare, Medicaid, food stamps, school lunches, and housing assistance.

Dated: February 6, 1995

Donna E. Shalala

Secretary of Health and Human Services

PROGRAM GUIDANCE FOR TITLE V OF THE SOCIAL SECURITY ACT

STATE BLOCK GRANT APPLICATION GUIDANCE WITH NEEDS ASSESSMENT

Maternal and Child Health Services Block Grant Program

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Maternal and Child Health Services Block Grant Program

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LEGISLATIVE HISTORY OF TITLE V

TITLE 42 - THE PUBLIC HEALTH AND WELFARE

CHAPTER 7. SOCIAL SECURITY ACT

TITLE V. MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT

42 USCS § 701

§ 701. Authorization of appropriations; purposes; definitions

(a) To improve the health of all mothers and children consistent with the applicable health status goals and national health objectives established by the Secretary under the Public Health Service Act for the year 2000, there are authorized to be appropriated $705,000,000 for fiscal year 1990 and each fiscal year thereafter—

(1) for the purpose of enabling each State—

(A) to provide and to assure mothers and children (in particular those with low income or with limited availability of health services) access to quality maternal and child health services;

(B) to reduce infant mortality and the incidence of preventable diseases and handicapping conditions among children, to reduce the need for inpatient and long-term care services, to increase the number of children (especially preschool children) appropriately immunized against disease and the number of low income children receiving health assessments and follow-up diagnostic and treatment services, and otherwise to promote the health of mothers and infants by providing prenatal, delivery, and postpartum care for low income, at-risk pregnant women, and to promote the health of children by providing preventive and primary care services for low income children;

(C) to provide rehabilitation services for blind and disabled individuals under the age of 16 receiving benefit under title XVI [42 USCS §§ 1381 et seq.], to the extent medical assistance for such services is not provided under title XIX [42 USCS §§ 1396 et seq.]; and

(D) to provide and to promote family-centered, community-based, coordinated care (including care coordination services, as defined in subsection (b)(3)) for children with special health care needs and to facilitate the development of community-based systems of services for such children and their families;

(2) for the purpose of enabling the Secretary (through grants, contracts, or otherwise) to provide for special projects of regional and national significance, research, and training with respect to maternal and child health and children with

special health care needs (including early intervention training and services development), for genetic disease testing, counseling, and information development and dissemination programs, for grants (including funding for comprehensive hemophilia diagnostic treatment centers) relating to hemophilia without regard to age, and for the screening of newborns for sickle cell anemia, and other genetic disorders and follow-up services; and

(3) subject to section 502(b) [42 USCS § 702(b)] for the purpose of enabling the Secretary (through grants, contracts, or otherwise) to provide for developing and expanding the following—

(A) maternal and infant health home visiting programs in which case management services as defined in subparagraphs (A) and (B) of subsection (b)(4), health education services, and related social support services are provided in the home to pregnant women or families with an infant up to the age one by an appropriate health professional or by a qualified nonprofessional acting under the supervision of a health care professional,

(B) projects designed to increase the participation of obstetricians and pediatricians under the program under this title [42 USCS §§ 701 et seq.] and under state plans approved under title XIX [42 USCS §§ 1396 et seq.],

(C) integrated maternal and child health service delivery systems (of the type described in section 1136 [42 USCS § 1320b-6] and using, once developed, the model application form developed under section 6506(a) of the Omnibus Budget Reconciliation Act of 1989) [note to this section],

(D) maternal and child health centers which (i) provide prenatal, delivery, and postpartum care for pregnant women and preventive and primary care services for infants up to age one, and (ii) operate under the direction of a not-for-profit hospital,

(E) maternal and child health projects to serve rural populations, and

(F) outpatient and community based services programs (including day care services) for children with special health care needs whose medical services are provided primarily through inpatient institutional care.

(b) For purposes of this title [42 USCS §§ 701 et seq.]:

(1) The term "consolidated health programs" means the programs administered under the provisions of—

(A) this title [42 USCS §§ 701 et seq.] (relating to maternal and child health and services for children with special health care needs),

(B) section 1615(c) of this Act [42 USCS § 1382d(c)] (relating to supplemental security income for disabled children),

(C) sections 316 (relating to lead-based paint poisoning prevention programs), 1101 (relating to genetic disease programs), 1121 (relating to sudden infant death syndrome programs) and 1131 (relating to hemophilia treatment centers) of the Public Health Service Act, and

(D) title VI of the Health Services and Centers Amendments of 1978 (Public Law 95-626; relating to adolescent pregnancy grants), as such provisions were in effect before the date of the enactment of the Maternal and Child Health Services Block Grant Act [enacted Aug. 13, 1981].

(2) The term "low income" means, with respect to an individual or family, such an individual or family with an income determined to be below the income official poverty line defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 [42 USCS § 9902(2)].

(3) The term "care coordination services" means services to promote the effective and efficient organization and utilization of resources to assure access to necessary comprehensive services for children with special health care needs and their families.

(4) The term "case management services" means—

(A) with respect to pregnant women, services to assure access to quality prenatal, delivery, and postpartum care; and

(B) with respect to infants up to age one, services to assure access to quality preventive and primary care services.

HISTORY: (Aug. 14, 1935, ch 531, Title V, § 501, as added Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(a) in part, 95 Stat. 818; Sept. 3, 1982, P.L. 97-248, Title I, Subtitle B, § 137(b)(1), (2), 96 Stat 376; July 18, 1984, P.L. 98-369, Division B, Title III, Subtitle B, § 2372(a), 98 Stat. 1110.) (As amended Apr. 7, 1986, P.L. 99-272, Title IX, Subtitle B, § 9527(a)-(c), 100 Stat. 219; Oct. 21, 1986, P.L. 99-509, Title IX, Subtitle E, Part 5, § 9441(a), 100 Stat. 2070; Dec. 22, 1987, P.L. 100-203, Title IV, Subtitle B, Part 2, § 4118(p)(8), 101 Stat. 1330-159; Dec. 19, 1989, P.L. 101-239, Title VI, Subtitle C, § 6501(a), 103 Stat. 2273.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:
"The Public Health Service Act", referred to in this section, is Act July 1, 1944, ch 373, 58 Stat. 682, which appears generally as 42 USCS §§ 201 et seq.

For full classification of such Act, consult USCS Tables volumes.

"Sections 316 . . . of the Public Health Service Act", referred to in this section, is Act July 1, 1944, ch 373, Title III, Part B, § 316, as added Nov. 10, 1978, P.L. 95-626, Title II, § 208(a), 92 Stat. 3586, which formerly appeared as 42 USCS § 247a, and which was repealed by Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2193(b)(1), 95 Stat. 827. For the effective date, savings and transitional provisions of the repeal, see Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2194, 95 Stat. 828, which appears as a note to this section. "Sections . . . 1101 . . . of the Public Health Service Act", referred to in this section, is Act July 1, 1944, ch 373, Title XI, Part A, § 1101, as added Apr. 22, 1976, P.L. 94-278, Title IV, § 403(a), 90 Stat. 407, which formerly appeared as 42 USCS § 300b, and which was repealed by Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2193(b)(1), 95 Stat. 827. For the effective date, savings and transitional provisions of the repeal, see Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2194, 95 Stat. 828, which appears as a note to this section. "Sections . . . 1121 . . . of the Public Health Service Act", referred to in this section, is Act July 1, 1944, ch 373, Title XI, Part B [C], § 1121, as added Apr. 22, 1974, P.L. 93-270, § 3(a), 88 Stat. 91, which formerly appeared as 42 USCS § 300c-11, and which was repealed by Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2193(b)(1), 95 Stat. 827. For the effective date, savings and transitional provisions of the repeal, see Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2194, 95 Stat. 828, which appears as a note to this section. "Sections . . . 1131 . . . of the Public Health Service Act", referred to in this section, is Act July 1, 1944, ch 373, Title XI, Part C [D], § 1131, as added July 29, 1975, P.L. 94-63, Title VI, § 606, 89 Stat. 350, which formerly appeared as 42 USCS § 300c-21, and which was repealed by Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2193(b)(1), 95 Stat. 827. For the effective date, savings and transitional provisions of the repeal, see Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2194, 95 Stat. 828, which appears as a note to this section. "Title VI of the Health Services and Centers Amendments of 1978 (Public Law 95-626)", referred to in this section, is Title VI of Act Nov. 10, 1978, P.L. 95-626, 92 Stat. 3595, which formerly appeared as 42 USCS §§ 300a-21 et seq. prior to repeal by Act Aug. 13, 1981, P.L. 97-35, Title IX, Subtitle G, § 955(b), 95 Stat. 592, and further repeal by Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2193(f), 95 Stat. 828. For the effective date, savings and transitional provisions of the repeal, see Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2194, 95 Stat. 828, which appears as a note to this section. Explanatory notes: A prior 701 (Act Aug. 14, 1935, ch 531, Title V, § 501, as added Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 921; Aug. 1, 1977, P.L. 95-83, Title III, § 309(a), 91 Stat. 396; Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2193(a)(3), 95 Stat. 827) was omitted in the general revision of this Title by Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(a) in part, 95

Stat. 818. Such section provided for authorization of appropriations. For the effective date, savings, and transitional provisions, see Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2194, 95 Stat. 828, which appears as a note to this section. Another prior § 701 (Act Aug. 14, 1935, ch 531, Title V [Part 1], § 501, 49 Stat. 629; Aug. 10, 1939, ch 666, Title V, § 501, 53 Stat. 1380; Aug. 10, 1946, ch 951, Title IV, § 401(b)(1), 60 Stat. 986; Aug. 28, 1950, ch 809, Title III, Part 3, § 331(a), Part 6, § 361(e), 64 Stat. 551, 558; Aug. 28, 1958, P.L. 85-840, Title VI, § 602(a), 72 Stat. 1054; Sept. 13, 1960, P.L. 86-778, Title VII, § 707(a)(1)(A), 74 Stat. 995; Oct. 24, 1963, P.L. 88-156, § 2(a), 77 Stat. 273; July 30, 1965, P.L. 89-97, Title II, Part 1, § 201(a), 79 Stat. 353) authorized appropriations, for maternal and child health services, of $25,000,000; $30,000,000; $35,000,000; $45,000,000; $50,000,000; $55,000,000; $55,000,000; and $60,000,000 for fiscal years ending June 30, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970 and each fiscal year thereafter, respectively prior to the general amendment of title V by Act Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 921. Provisions similar to those of prior § 701 were contained in § 511 of Act Aug. 14, 1935, ch 531, Title V, 49 Stat. 631, as amended, which formerly appeared as 42 U.S.C. § 711, and former §§ 531(a), 532(a), and 533(a) [532(a)], of Act Aug. 14, 1935, ch 531, Title V, as added Oct. 24, 1963, P.L. 88-156, § 4, 77 Stat. 274; July 30, 1965, P.L. 89-97, Title II, § 205(2), (3), 79 Stat. 354, which formerly appeared as 42 U.S.C. §§ 729(a), 729-1(a), and 729a(a), prior to the general amendment and renumbering of Title V of Act Aug. 14, 1935, by Act Jan. 2, 1968, P.L. 90-248, § 301, 81 Stat. 921.

Amendments:
1982. Act Sept. 3, 1982, in subsec. (b), in para. (1)(D), substituted "title VI" for "title IV", and in para. (2), substituted "section 673(2) of the Omnibus Budget Reconciliation Act of 1981" for "section 624 of the Economic Opportunity Act of 1964". 1984. Act July 18, 1984, in subsec. (a), in the concluding matter, substituted "$478,000,000 for fiscal year 1984 and each fiscal year thereafter" for "$373,000,000 for fiscal year 1982 and for each fiscal year thereafter". For application of this amendment, see § 2372(b), which appears as a note to this section. 1986. Act Apr. 7, 1986, in subsec. (a), in para. (4), substituted "children who are 'children with special health care needs' or who are suffering from conditions leading to such status" for "children who are crippled or who are suffering from conditions leading to crippling" and, in the concluding matter, substituted "children with special health care needs" for "crippled children"; and, in subsec. (b)(1)(A), substituted "services for children with special health care needs" for "crippled children's services". Act Oct. 21, 1986, in subsec. (a), substituted "$553,000,000 for fiscal year 1987, $557,000,000 for fiscal year 1988, and $561,000,000 for fiscal year 1989" for

"$478,000,000 for fiscal year 1984". 1987. Act Dec. 22, 1987, in subsec. (b)(2), deleted "nonfarm" following "below the". 1989. Act Dec. 19, 1989, § 6501(a) (applicable as provided by § 6510 of such Act, which appears as a note to this section), substituted subsec. (a) for one which read:

"(a) For the purpose of enabling each State—

"(1) to assure mothers and children (in particular those with low income or with limited availability of health services) access to quality maternal and child health services,

"(2) to reduce infant mortality and the incidence of preventable diseases and handicapping conditions among children, to reduce the need for inpatient and long-term care services, to increase the number of children (especially preschool children) appropriately immunized against disease and the number of low income children receiving health assessments and follow-up diagnostic and treatment services, and otherwise to promote the health of mothers and children (especially by providing preventive and primary care services for low income children, and prenatal, delivery, and postpartum care for low income mothers),

"(3) to provide rehabilitation services for blind and disabled individuals under the age of 16 receiving benefits under title XVI of this Act, and

"(4) to provide services for locating, and for medical, surgical, corrective, and other services, and care for, and facilities for diagnosis, hospitalization, and aftercare for, children who are 'children with special health care needs' or who are suffering from conditions leading to such status; and for the purpose of enabling the Secretary to provide for special projects of regional and national significance, research, and training with respect to maternal and child health and children with special health care needs for genetic disease testing, counseling, and information development and dissemination programs, and for grants relating to hemophilia (without regard to age), there are authorized to be appropriated $553,000,000 for fiscal year 1987, $557,000,000 for fiscal year 1988, and $561,000,000 for fiscal year 1989 and each fiscal year thereafter."; and, in subsec. (b), added paras. (3) and (4).

Other provisions: Effective date, savings, and transitional provisions. Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2194, 95 Stat 828, provided:

"(a) Except as otherwise provided in this section, the amendments made by sections 2192 and 2193 of this subtitle [this note, among other things; for full classification, consult USCS Tables volumes] do not apply to any grant made, or contract entered into, or amounts payable to States under State plans before the earlier of—

"(1) October 1, 1982, or

"(2)(A) in the case of such grants, contracts, or payments under consolidated State programs (as defined in subsection (c)(2)(C)) to a State (or entities in the State), the date the State is first entitled to an allotment under Title V of the Social Security Act [42 USCS §§ 701 et seq.] (as amended by this subtitle [this note, among other things; for full classification, consult USCS Tables volumes]), or

"(B) in the case of grants and contracts under consolidated Federal programs (as defined in subsection (c)(2)(B)), October 1, 1981, or such later date (before October 1, 1982) as the Secretary determines to be appropriate.

"(b)(1) The Secretary of Health and Human Services (hereinafter in this section referred to as the 'Secretary') may not provide for any allotment to a State under title V of the Social Security Act [42 USCS §§ 701 et seq.] (as amended by this subtitle [this note, among other things; for full classification, consult USCS Tables volumes]) for a calendar quarter in fiscal year 1982 unless the State has notified the Secretary, at least 30 days (or 15 days in the case of the first calendar quarter of the fiscal year) before the beginning of the calendar quarter, that the State requests an allotment for that calendar quarter (and subsequent calendar quarters).

"(2)(A) Any grants or contracts entered into under the authorities of the consolidated State programs (as defined in subsection (c)(2)(C)) after the date of the enactment of this subtitle [enacted Aug. 13, 1981] shall permit the termination of such grant or contract upon three months notice by the State in which the grantee or contractor is located.

"(B) The Secretary shall not make or renew any grants or contracts under the provisions of the consolidated State programs (as defined in subsection (c)(2)(C)) to a State (or an entity in the State) after the date the State becomes entitled to an allotment of funds under title V of the Social Security Act [42 USCS §§ 701 et seq.](as amended by this subtitle [this note, among other things; for full classification, consult USCS Tables volumes]).

"(3)(A) In the case of funds appropriated for fiscal year 1982 for consolidated health programs (as defined in subsection (c)(2)(A)), such funds shall (notwithstanding any other provision of law) be available for use under title V of the Social Security Act [42 USCS §§ 701 et seq.] (as amended by this subtitle [this note, among other things; for full classification, consult USCS Tables volumes]), subject to subparagraphs (B) and (C).

"(B) Notwithstanding any other provision of law—

"(i) the amount that may be made available for expenditures for the consolidated Federal programs for fiscal year 1982 and for projects and programs under section 502(a) of the Social Security Act [42 USCS § 702(a)] (as amended by this subtitle [this note, among other things; for full classification, consult USCS Tables volumes]) may not exceed the amount provided for projects and programs under such section 502(a) [42 USCS § 702(a)] for that fiscal year, and

"(ii) the amount that may be made available to a State (or entities in the State) for carrying out the consolidated State programs for fiscal year 1982 and for allotments to the State under section 502(b) of the Social Security Act [42 USCS § 702(b)] (as amended by this subtitle [this note, among other things; for full classification, consult USCS Tables volumes]) may not exceed the amount which is allotted to the State for that fiscal year under such section (without regard to paragraphs (3) and (4) thereof).

"(C) For fiscal year 1982, the Secretary shall reduce the amount which would otherwise be available—

"(i) for expenditures by the Secretary under section 502(a) of the Social Security Act [42 USCS § 702(a)](as amended by this subtitle [this note, among other things; for full classification, consult USCS Tables volumes]) by the amounts which the Secretary determines or estimates are payable for consolidated Federal programs (as defined in subsection (c)(2)(B)) from funds for fiscal year 1982, and

"(ii) for allotment to each of the States under section 502(b) of such Act [42 USCS § 702(b)] (as so amended) by the amounts which the Secretary determines or estimates are payable to that State (or entities in the State) under the consolidated State programs (as defined in subsection (c)(2)(C)) from funds for fiscal year 1982.

"(c) For purposes of this section:

"(1) The term 'State' has the meaning given such term for purposes of title V of the Social Security Act [42 USCS §§ 701 et seq.].

"(2)(A) The term 'consolidated health programs' has the meaning given such term in section 501(b) of the Social Security Act [subsec. (b) of this section] (as amended by this subtitle [this note, among other things; for full classification, consult USCS Tables volumes]).

"(B) The term 'consolidated Federal programs' means the consolidated health programs-

"(i) of special projects grants under sections 503 and 504, and training grants under section 511, of the Social Security Act [42 USCS §§ 703, 704, and former 711],

"(ii) of grants and contracts for genetic disease projects and programs under section 1101 of the Public Health Service Act [former 42 USCS § 300b, and

"(iii) of grants or contracts for comprehensive hemophilia diagnostic and treatment centers under section 1131 of the Public Health Service Act [former 42 USCS § 300c-21], as such sections are in effect before the date of the enactment of this subtitle [enacted Aug. 13, 1981].

"(C) The term 'consolidated State programs' means the consolidated health programs, other than the consolidated Federal programs. "(d) The provisions of chapter 2 of subtitle C of title XVII of this Act [former 31 USCS § 1243 note, now 31 USCS §§ 7301 et seq.] shall not apply to this subtitle [this note, among other things; for full classification, consult USCS Tables volumes] (or the programs under the amendments made by this title [this note, among other things; for full classification, consult USCS Tables volumes]) and, specifically, section 1745 of this Act [former 31 USCS § 1243 note, now 31 USCS § 7305] shall not apply to financial and compliance audits conducted under section 506(b) of the Social Security Act [42 USCS § 706(b)] (as amended by this subtitle [this note, among other things; for full classification, consult USCS Tables volumes]).".

Application of amendments made by Act Sept. 3, 1982. Act Sept. 3, 1982, P.L. 97-248, Title I, Subtitle B, § 137(d)(2), 96 Stat. 381, which appears as 42 USCS § 1396a note, provided that the amendments made to this section by such Act are applicable as if originally included as a part of this section as added by Act Aug. 13, 1981, P.L. 97-35, 95 Stat. 357.

Application of amendment made by § 2372(a) of Act July 18, 1984. Act July 18, 1984, P.L. 98-369, Division B, Title III, Subtitle B, § 2372(b), 98 Stat. 111, provided: "The amendment made by subsection (a) [amending subsec. (a) of this section] shall be effective for fiscal years beginning on or after October 1, 1983.". Development of model applications. Act Dec. 19, 1989, P.L. 101-239, Title VI, Subtitle C, § 6506(a), 103 Stat. 2281 (applicable as provided by § 6510 of such Act, which appears as a note to this section), provides:

"(a) FOR MATERNAL AND CHILD ASSISTANCE PROGRAMS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall develop, by not later than one year after the date of the enactment of this Act and in consultation with the Secretary of Agriculture, a model application form for use in applying, simultaneously, for assistance for a pregnant woman or a child less than 6 years of age under maternal and child assistance programs (as defined in paragraph (3)). In developing such form, the Secretary is not authorized to change any requirement with respect to eligibility under any maternal and child assistance program.

"(2) DISSEMINATION OF MODEL FORM.—The Secretary shall provide for publication in the Federal Register of the model application form developed under paragraph (1) and shall send a copy of such form to each State agency responsible for administering a maternal and child assistance program.

"(3) MATERNAL AND CHILD ASSISTANCE PROGRAM DEFINED.—In this subsection, the term 'maternal and child assistance program' means any of the following programs:

"(A) The maternal and child health services block grant program under title V of the Social Security Act [42 USCS §§ 701 et seq.].

"(B) The medicaid program under title XIX of the Social Security Act [42 USCS §§ 1396 et seq.].

"(C) The migrant and community health centers programs under sections 329 and 330 of the Public Health Service Act [42 USCS §§ 254b and 254c].

"(D) The grant program for the homeless under section 340 of the Public Health Service Act [42 USCS § 256].

"(E) The 'WIC' program under section 17 of the Child Nutrition Act of 1966 [42 USCS § 1786].

"(F) The head start program under the Head Start Act [42 USCS §§ 9831 et seq., generally; for full classification, consult USCS Tables volumes].".

Research on infant mortality and medicaid services. Act Dec. 19, 1989, P.L. 101-239, Title IV, Subtitle C, § 6507, 103 Stat. 2282 (applicable as provided by § 6510 of such Act, which appears as a note to this section), provides:

"The Secretary of Health and Human Services shall develop a national data system for linking, for any infant up to age one—

"(1) the infant's birth record,

"(2) any death record for the infant, and

"(3) information on any claims submitted under title XIX of the Social Security Act [42 USCS §§ 1396 et seq.] for health care furnished to the infant or with respect to the birth of the infant.".

Demonstration project on health insurance for medically uninsurable children. Act Dec. 19, 1989, P.L. 101-239, Title IV, Subtitle C, § 6508, 103 Stat. 2283 (applicable as provided by § 6510 of such Act, which appears as a note to this section), provides:

"(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the 'Secretary') may conduct not more than 4 demonstration projects to provide health insurance coverage (as defined by the Secretary) through an eligible plan (as defined in subsection (b)) to medically uninsurable children (as defined by the Secretary) under 19 years of age.

"(b) ELIGIBILITY.—In this section, the term 'eligible plan' means—

"(1) a school-based plan;

"(2) a plan operated under the direction of a not-for-profit entity offering health insurance; and

"(3) a plan operated by a not-for-profit hospital.

"(c) REQUIREMENTS.—A demonstration project conducted under subsection (a) may only be conducted under an agreement between the Secretary and an eligible plan which provides that—

"(1) health insurance coverage will be made available under the project for at least 2 years, and, if the eligible plan fails to provide such coverage during such period, the Secretary will guarantee the provision of such coverage;

"(2) non-Federal funds will be made available to fund the project at a level not less than—

"(A) 50 percent in the first year of such agreement,

"(B) 65 percent in the second year of such agreement, and

"(C) 80 percent in the third or subsequent year of such agreement;

"(3) the plan may not—

"(A) restrict health insurance coverage on the basis of a child's medical condition, or

"(B) impose waiting periods or exclusions for preexisting conditions;

"(4) any premium imposed under the project shall be disclosed in advance of enrollment and shall be varied by the income of individuals; and

"(5) with respect to a plan which at the time of entering into such agreement is conducting a project similar to the one described in this subsection such plan must maintain its current level of non-Federal funding at its current level unless such level is less than the applicable level described in paragraph (2).

"(d) APPLICATION.—No funds may be made available by the Secretary under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain and be accompanied by such information, as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under this section.

"(e) EVALUATION AND REPORT.—

"(1) EVALUATION.—The Secretary shall provide for an evaluation of the effects of the demonstration projects conducted under subsection (a) on—

"(A) access to health services by previously medically uninsurable children,

"(B) the availability of insurance coverage to participating medically uninsurable children,

"(C) the demographic characteristics and health status of participating medically uninsurable children and their families, and

"(D) out-of-pocket health care costs for such families.

"(2) REPORT.—The Secretary shall submit a report on the demonstration projects conducted under subsection (a) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate, and shall include in such report a summary of the evaluation described in paragraph (1).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000, for each of fiscal years 1991, 1992, and 1993.".

Maternal and child health handbook. Act Dec. 19, 1989, P.L. 101-239, Title IV, Subtitle C, § 6509, 103 Stat. 2284 (applicable as provided by § 6510 of such Act, which appears as a note to this section), provides:

"(a) IN GENERAL.—

"(1) DEVELOPMENT.—The Secretary of Health and Human Services shall develop a maternal and child health handbook in consultation with the National Commission to Prevent Infant Mortality and public and private organizations interested in the health and welfare of mothers and children.

"(2) FIELD TESTING AND EVALUATION.—The Secretary shall complete publication of the handbook for field testing by July 1, 1990, and shall complete field testing and evaluation by June 1, 1991.

"(3) AVAILABILITY AND DISTRIBUTION.—The Secretary shall make the handbook available to pregnant women and families with young children, and shall provide copies of the handbook to maternal and child health programs (including maternal and child health clinics supported through either title V or title XIX of the Social Security Act [42 USCS §§ 701 et seq. or 1396 et seq.], community and migrant health centers under sections 329 and 330 of the Public Health Service Act [42 USCS §§ 254b and 254c], the grant program for the homeless under section 340 of the Public Health Service Act [42 USCS § 256], the 'WIC' program under section 17 of the Child Nutrition Act of 1966 [42 USCS § 1786], and the head start program under the Head Start Act [42 USCS §§ 9831 et seq., generally; for full classification, consult USCS Tables volumes] that serve high-risk women. The Secretary shall coordinate the distribution of the handbook with State maternal and child health departments, State and local public health clinics, private providers of obstetric and pediatric care, and community groups where applicable. The Secretary shall make efforts to involve private entities in the distribution of the handbook under this paragraph.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each of fiscal years 1991, 1992, and 1993, for carrying out the purposes of this section.".

Application of amendments made by §§ 6501 et seq. of Act Dec. 19, 1989. Act Dec. 19, 1989, P.L. 101-239, Title VI, Subtitle C, § 6510, 103 Stat. 2284, provides:

"(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle [amending 42 USCS §§ 701-706, 709] shall apply to appropriations for fiscal years beginning with fiscal year 1990.

"(b) APPLICATION AND REPORT.—The amendments made—

"(1) by subsections (b) and (c) of section 6503 [amending 42 USCS §§ 702, 704-706] shall apply to payments for allotments for fiscal years beginning with fiscal year 1991, and

"(2) by section 6504 [amending 42 USCS § 706] shall apply to annual reports for fiscal years beginning with fiscal year 1991.".

NOTES:
RESEARCH GUIDE

Federal Procedure L Ed:
Health, Education, and Welfare, Fed Proc, L Ed, §§ 42:453, 42:486, 42:502.
Am Jur:
9A Am Jur 2d, Bankruptcy § 707.
70 Am Jur 2d, Social Security and Medicare § 1.
79 Am Jur 2d, Welfare Laws § 11.

Forms:
24 Am Jur Pl & Pr Forms (Rev), Unemployment Compensation, Form 35.1.

42 USCS § 702

§ 702. Allotment to States and Federal set-aside

(a)(1) Of the amounts appropriated under section 501(a) [42 USCS § 701 (a)] for a fiscal year that are not in excess of $600,000,000, the Secretary shall retain an amount equal to 15 percent for the purpose of carrying out activities described in section 501(a)(2) [42 USCS § 701 (a)(2)]. The authority of the Secretary to enter into any contracts under this title [42 USCS §§ 701 et seq.] is effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

(2) For purposes of paragraph (1)—

(A) amounts retained by the Secretary for training shall be used to make grants to public or nonprofit private institutions of higher learning for training personnel for health care and related services for mothers and children; and

(B) amounts retained by the Secretary for research shall be used to make grants to, contracts with, or jointly financed cooperative agreements with, public or nonprofit institutions of higher learning and public or nonprofit private agencies and organizations engaged in research or in maternal and child health or programs for children with special health care needs for research projects relating to maternal and child health services or services for children with special health care needs which show promise of substantial contribution to the advancement thereof.

(3) No funds may be made available by the Secretary under this subsection or subsection (b) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain and be accompanied by such information as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under this title [42 USCS §§ 701 et seq.].

(b)(1)(A) Of the amounts appropriated under section 501(a) [42 USCS § 701 (a)] for a fiscal year in excess of $600,000,000 the Secretary shall retain an amount equal to 12*r3/4# percent thereof for the projects described in subparagraphs (A) through (F) of section 501(a)(3) [42 USCS § 701 (a)(3) (A)-(F)]

(B) Any amount appropriated under section 501(a) [42 USCS § 701 (a)] for a fiscal year in excess of $600,000,000 that remains after the Secretary has retained the applicable amount (if any) under subparagraph (A) shall be retained by the Secretary in accordance with subsection (a) and allocated to the States in accordance with subsection (c).

(2)(A) Of the amounts retained for the purpose of carrying out activities described in section 501(a)(3)(A), (B), (C), (D), and (E) [42 USCS § 701 (a)(3) (A)-(E)], the Secretary shall provide preference to qualified applicants which demonstrate that the activities to be carried out with such amounts shall be in areas with a high infant mortality rate (relative to the average infant mortality rate in the United States or in the State in which the area is located).

(B) In carrying out activities described in section 501(a)(3)(D) [42 USCS § 701 (a)(3)(D)], the Secretary shall not provide for developing or expanding a maternal and child health center unless the Secretary has received satisfactory assurances that there will be applied, towards the costs of such development or expansion, non-Federal funds in an amount at least equal to the amount of funds provided under this title [42 USCS §§ 701 et seq.] toward such development or expansion.

(c) From the remaining amounts appropriated under section 501(a) [42 USCS § 701 (a)] for any fiscal year that are not in excess of $600,000,000, the Secretary shall allot to each State which has transmitted an application for the fiscal year under section 505(a) [42 USCS § 705(a)], an amount determined as follows:

(1) The Secretary shall determine, for each State—

(A)(i) the amount provided or allotted by the Secretary to the State and to entities in the State under the provisions of the consolidated health programs (as defined in section 501(b)(1) [42 USCS § 701 (b)(1)]), other than for any of the projects or programs described in subsection (a), from appropriations for fiscal year 1981,

(ii) the proportion that such amount for that State bears to the total of such amounts for all the States, and

(B)(i) the number of low income children in the State, and

(ii) the proportion that such number of children for that State bears to the total of such numbers of children for all the States.

(2) Each such State shall be allotted for each fiscal year an amount equal to the sum of—

(A) the amount of the allotment to the State under this subsection in fiscal year 1983, and

(B) the State's proportion (determined under paragraph (1)(B)(ii)) of the amount by which the allotment available under this subsection for all the States for that fiscal year exceeds the amount that was available under this subsection for allotment for all the States for fiscal year 1983.

(d)(1) To the extent that all the funds appropriated under this title [42 USCS §§ 701 et seq.] for a fiscal year are not otherwise allotted to States either because all the States have not qualified for such allotments under section 505(a) [42 USCS § 705(a)] for the fiscal year or because some States have indicated in their descriptions of activities under section 505(a) [42 USCS § 705(a)] that they do not intend to use the full amount of such allotments, such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.

(2) To the extent that all the funds appropriated under this title [42 USCS §§ 701 et seq.] for a fiscal year are not otherwise allotted to States because some State allotments are offset under section 506(b)(2) [42 USCS § 706(b)(2)], such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.

HISTORY: (Aug. 14, 1935, ch 531, Title V, § 502, as added Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(a) in part, 95 Stat. 819.)
(As amended Apr. 7, 1986, P.L. 99-272, Title IX, Subtitle B, § 9527(d), 100 Stat. 219; Oct. 21, 1986, P.L. 99-509, Title IX, Subtitle E, Part 5, § 9441(b), 100 Stat. 2070; Dec. 19, 1989, P.L. 101-239, Title VI, Subtitle C, §§ 6502(a), 6503(c)(1), (4), 103 Stat. 2275, 2278.)

HISTORY: ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:
A prior § 702 (Act Aug. 14, 1935, ch 531, Title V, § 502, as added Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 921; July 10, 1972, P.L. 92-345, § 1, 86 Stat. 456; July 1, 1973, P.L. 93-53, § 4(a)(1), (2), 87 Stat. 135) was omitted in the general revision of this Title by Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(a) in part, 95 Stat. 819. Such section provided for purposes for which funds were available. For effective date, savings and transitional provisions, see Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2194, 95 Stat. 828, which appears as 42 USCS § 701 note. Another prior § 702 (Act Aug. 14, 1935, ch 531, Title V [Part 1], § 502, 49 Stat. 629; Aug. 10, 1939, ch 666, Title V, § 502, 53 Stat. 1380; Aug. 10, 1946, ch 951, Title IV, § 401(b) (2), (3), 60 Stat. 986; Aug. 28, 1950, ch 809, Title III, Part 3, § 331(b), 64 Stat. 551; Aug. 28, 1958, P.L. 85-840, Title VI, § 602(b),(c), 72 Stat. 1055; Sept. 13, 1960, P.L. 86-778, Title VII, § 707(a)(1)(B), (C), (b)(1)(A), 74 Stat. 995, 996; Oct. 24, 1963, P.L. 88-156, § 2(b), (c), 77 Stat. 273) provided for allotment to States for maternal and child health services, prior to the general amendment of Title V by Act Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 921, and similar provisions were contained in 42 U.S.C. § 703. Although § 6503(c)(4) of Act Dec. 19, 1989, P.L. 101-239, 103 Stat. 2278, indicated that subsec. (b) of this section was to be amended by substituting "505(a)" for "505", such amendment was executed with respect to subsec. (c) of this section, which was formerly

subsec. (b), in order to effectuate the probable intent of Congress.

Amendments:
+ 1986. Act Apr. 7, 1986, in subsec. (a)(2)(B), substituted "programs for children with special health care needs" for "crippled children's programs" and substituted "services for children with special health care needs" for "crippled children's services".
+ Act Oct. 21, 1986, in subsec. (a)(1), substituted "amounts appropriated under section 501(a) for a fiscal year that are not in excess of $478,000,000" for "amount appropriated under section 501(a)"; in subsec. (b), in the introductory matter, inserted "that are not in excess of $478,000,000", and deleted para. (3) which read:

"(3)(A) To the extent that all the funds appropriated under this title for a fiscal year are not otherwise allotted to States either because all the States have not qualified for such allotments under section 505 for the fiscal year or because some States have indicated in their descriptions of activities under section 505 that they do not intend to use the full amount of such allotments, such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this subparagraph.

"(B) To the extent that all the funds appropriated under this title for a fiscal year are not otherwise allotted to States because some State allotments are offset under section 506(b)(2), such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this subparagraph.".

Such Act further added subsecs. (c) and (d). 1989. Act Dec. 19, 1989, § 6502(a) (applicable as provided by § 6510 of such Act which appears as 42 USCS § 701 note), in subsec. (a), substituted para. (1) for one which read: "Of the amounts appropriated under section 501(a) [42 USCS § 701 (a)] for a fiscal year that are not in excess of $478,000,000, the Secretary shall retain an amount equal to 15 percent thereof in the case of fiscal year 1982, and an amount equal to not less than 10, nor more than 15, percent thereof in the case of each fiscal year thereafter, for the purpose of carrying out (through grants, contracts, or otherwise) special projects of regional and national significance, training, and research and for the funding of genetic disease testing, counseling, and information development and dissemination programs and of comprehensive hemophilia diagnostic and treatment centers.", in para. (3), inserted "or subsection (b)"; deleted subsec. (c) which read:

"(c)(1) Of the amounts appropriated for a fiscal year in excess of $478,000,000, an amount equal to 7 percent for fiscal year 1987, 8 percent for fiscal year 1988, and 9 percent for fiscal year 1989 shall be retained by the Secretary for the purpose of carrying out (through grants, contracts, or otherwise) projects for the screening of newborns for sickle-cell anemia and other genetic disorders. The provisions of paragraph (3) of subsection (a) shall apply to projects authorized by this paragraph to the same extent as such provisions apply to projects authorized under such subsection.

"(2)(A) Of the amounts appropriated for a fiscal year in excess of $478,000,000 that remain after the Secretary has retained the applicable amount (if any) for such fiscal year under paragraph (1), an amount equal to 33 1/3 percent shall be retained and allotted in the same manner as the amounts retained and allotted under subsections (a) and (b).

"(B) The amounts retained by the Secretary under this paragraph shall be used for the purpose of carrying out (through grants, contracts, or otherwise) special projects of regional or national significance, training, and research to promote access to primary health services for children and community-based service networks and case management services for children with special health care needs.

"(C) The amounts allotted to the States under this paragraph shall be used to develop primary health services demonstration programs and projects for children and to promote the development of community-based service networks and case management services for children with special health care needs.

"(D) For purposes of this paragraph—

"(i) the term 'primary health services' includes—

"(I) any assessment, diagnosis, or treatment service provided on an outpatient basis that is designed to promote the health, to prevent the development of disease or disability, or to treat an illness or other health condition, of a child, and

"(II) any service designed to promote the access of children to high quality, continuous, and comprehensive primary health services, including case management;

"(ii) the term 'community-based service network for children with special health care needs' means a network of coordinated, high-quality services that is located in or near the home communities of children with special health care needs in order to improve the health status, functioning, and well-being of such children;

"(iii) the term 'case management services' means services to promote the effective and efficient organization and utilization of resources to assure access to necessary comprehensive services for children and their families; and "(iv) the term 'comprehensive services' includes early identification and intervention services, diagnostic and evaluation services, treatment services, rehabilitation services, family support services, and special education services.

"(3) Of the amounts appropriated for a fiscal year in excess of $478,000,000 that remain after the Secretary has retained the applicable amount (if any) for such fiscal year under paragraph (1), an amount equal to 66 2/3 percent shall be retained and allotted in the same manner and for the same purposes as the amounts retained and allotted under subsections (a) and (b)."; redesignated subsec. (b) as subsec. (c) and added a new subsec. (b); and, in subsec. (c) as so redesignated, in the introductory matter, substituted "600,000,000" for "478,000,000" and substituted para. (2) for one which read:

"(2)(A) For each of fiscal years 1982 and 1983, each such State shall be allotted for that fiscal year an amount equal to the State's proportion (determined under paragraph (1)(A)(ii)) of the amounts available for allotment to all the States under this subsection for that fiscal year.

"(B) For fiscal years beginning with fiscal year 1984, if the amount available for allotment under this subsection for that fiscal year—

"(i) does not exceed the amount available under this subsection for allotment for fiscal year 1983, each such State shall be allotted for that fiscal year an amount equal to the State's proportion (determined under paragraph (1)(A)(ii)) of the amounts available for allotment to all the States under this subsection for that fiscal year, or

"(ii) exceeds the amounts available under this subsection for allotment for fiscal year 1983, each such State shall be allotted for that fiscal year an amount equal to the sum of—

"(I) the amount of the allotment to the State under this subsection in fiscal year 1983 (without regard to paragraph (3) of this subsection), and

"(II) the State's proportion (determined under paragraph (1)(B)(ii)) of the amount by which the allotment available under this subsection for all the States for that fiscal year exceeds the amount that was available under this subsection for allotment for all the States for fiscal year 1983.". Section 6503(c)(1), (4) of such Act (applicable as above), in subsec. (c) as redesignated, substituted "an application" for "a description of intended activities and statement of assurances" and substituted "505(a)" for "505" (see Explanatory note); and, in subsec. (d)(1), substituted "505(a)" for "505" in two places.

NOTES:
RESEARCH GUIDE

Federal Procedure L Ed:
Health, Education, and Welfare, Fed Proc, L Ed, § 42:65.

42 USCS § 703

§ 703. Payments to States

(a) Statutory provisions applicable. From the sums appropriated therefor and the allotments available under section 502(c) [42 USCS § 702(c)], the Secretary shall make payments as provided by section 6503(a) of title 31, United States Code [31 USCS § 6503(a)] to each State provided such an allotment under section 502(c) [42 USCS § 702(c)], for each quarter, of an amount equal to four-sevenths of the total of the sums expended by the State during such quarter in carrying out the provisions of this title [42 USCS §§ 701 et seq.].

(b) Unobligated allotments. Any amount payable to a State under this title [42 USCS §§ 701 et seq.] from allotments for a fiscal year which remains unobligated at the end of such year shall remain available to such State for obligation during the next fiscal year. No payment may be made to a State under this title [42 USCS §§ 701 et seq.] from allotments for a fiscal year for expenditures made after the following fiscal year.

(c) Reduction of payments; fair market value of supplies or equipment, value of salaries, travel expenses, etc.

(1) the fair market value of any supplies or equipment furnished the State, and

(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee, when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 505(a) [42 USCS § 705(a)] on a temporary basis. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

HISTORY: (Aug. 14, 1935, ch 531, Title V, § 503, as added Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(a) in part, 95 Stat. 821; July 18, 1984, P.L. 98-369, Division B, Title III, Subtitle B, § 2373(a)(1), 98 Stat. 1111.)
(As amended Dec. 19, 1989, P.L. 101-239, Title VI, Subtitle C, §§ 6502(b), 6503(c)(4), 103 Stat. 2276, 2278.)

HISTORY: ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:
A prior § 703 (Act Aug. 14, 1935, ch 531, Title V, § 503, as added

Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 922) was omitted in the general revision of this Title by Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(a) in part, 95 Stat. 821. Such section provided for allotments to states for maternal and child health services, and similar provisions are now contained in 42 USCS § 702. For effective date, savings and transitional provisions, see Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2194, 95 Stat. 828, which appears as 42 USCS § 701 note. Another prior § 703 (Act Aug. 14, 1935, ch 531 Title V, [Part 1], § 503, 49 Stat. 630; Aug. 10, 1939, ch 666, Title V, § 503, 53 Stat. 1380; Aug. 28, 1950, ch 809, Title III, Part 6, § 361(e), 64 Stat. 558; July 30, 1965, P.L. 89-97, Title II, Part 1, § 204(a), 79 Stat. 354) provided for contents of State plans for maternal and child health services and their approval by the Administrator prior to the general amendment of Title V by Act Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 921, and similar provisions were contained in 42 U.S.C. § 705. Provisions similar to those of prior § 703 were contained in § 502 of Act Aug. 14, 1935, ch 531, Title V, 49 Stat. 629, as amended, which formerly appeared as 42 U.S.C. § 702, prior to the general amendment and renumbering of Title V by Act Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 921.

Amendments:
1984. Act July 18, 1984, in subsec. (a), substituted "section 6503(a) of title 31, United States Code" for "section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213)".
1989. Act Dec. 19, 1989, §§ 6502(b) (applicable as provided by § 6510 of such Act, which appears as 42 USCS § 701 note), in subsec. (a), substituted "502(c)" for "502(b)" in two places. Section 6503(c)(4) of such Act (applicable as above), in subsec. (c), in the concluding matter, substituted "505(a)" for "505".

42 USCS § 704

§ 704. Use of allotment funds

(a) Covered services. Except as otherwise provided under this section, a State may use amounts paid to it under section 503 [42 USCS § 703] for the provision of health services and related activities (including planning, administration, education, and evaluation and including payment of salaries and other related expenses of National Health Service Corps personnel) consistent with its application transmitted under section 505(a) [42 USCS § 705(a)].

(b) Restrictions. Amounts described in subsection (a) may not be used for—

(1) inpatient services, other than inpatient services provided to children with special health care needs or to high-risk pregnant women and infants and such other inpatient services as the Secretary may approve;

(2) cash payments to intended recipients of health services;

(3) the purchase or improvement of land, the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility, or the purchase of major medical equipment;

(4) satisfying any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds;

(5) providing funds for research or training to any entity other than a public or nonprofit private entity; or

(6) payment for any item or service (other than an emergency item or service) furnished—

(A) by an individual or entity during the period when such individual or entity is excluded under this title or title XVIII, XIX, or XX pursuant to section 1128, 1128A, 1156, or 1842(j)(2) [42 USCS § 1320a-7, 1320a-7a, 1320c-5 or 1395u(j)(2)]

(B) at the medical direction or on the prescription of a physician during the period when the physician is excluded under this title or title XVIII, XIX, or XX pursuant to section 1128, 1128A, 1156, or 1842(j)(2) [42 USCS § 1320a-7, 1320a-7a, 1320c-5 or 1395u(j)(2)] and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person). The Secretary may waive the limitation contained in paragraph (3) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this title [42 USCS §§ 701 et seq.].

(c) Use of portion of funds. A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, and administering programs funded under this title [42 USCS §§ 701 et seq.].

(d) Of the amounts paid to a State under section 503 [42 USCS § 703] from an allotment for a fiscal year under section 502(c) [42 USCS § 702(c)] not more than 10 percent may be used for administering the funds paid under such section.

HISTORY: (Aug. 14, 1935, ch 531, Title V, § 504, as added Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(a) in part, 95 Stat. 821.)
(As amended Apr. 7, 1986, P.L. 99-272, Title IX, Subtitle B, § 9527(e) in part, 100 Stat. 219; Aug. 18, 1987, P.L. 100-93, § 8(a), 101 Stat. 692; Dec. 22, 1987, P.L. 100-203, Title IV, Subtitle B, Part 2, § 4118(e)(12); July 1, 1988, P.L. 100-360, Title IV, Subtitle B, § 411(k)(10)(D), 102 Stat. 796; Oct. 13, 1988, P.L. 100-485, Title VI, § 608(d)(26)(K)(ii), 102 Stat. 2422; Dec. 19, 1989, P.L. 101-239, Title VI, Subtitle C, § 6503(a), (c)(2), (4), 103 Stat. 2276, 2278.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:
"This title, title XVIII, XIX, or XX", referred to in this section, is a reference to 42 USCS §§ 701 et seq., 1395 et seq., 1396 et seq., or 1397 et seq.

Explanatory notes:
A prior § 704 (Act Aug. 14, 1935, ch 531, Title V, § 504, as added Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 922) was omitted in the general revision of this Title by Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(a) in part, 95 Stat. 821. Such section provided for allotments to States for crippled children's services, and similar provisions are now contained in 42 USCS § 702. For effective date, savings and transitional provisions, see Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2194, 95 Stat. 828, which appears as 42 USCS § 701 note. Another prior § 704 (Act Aug. 14, 1935, ch 531, Title V [Part 1], § 504, 49 Stat. 630; Aug. 28, 1950, ch 809, Title III, Part 6, § 361(e), 64 Stat. 558; Sept. 13, 1960, P.L. 86-778, Title VII, § 707(b)(1)(B), 74 Stat. 996; July 30, 1965, P.L. 89-97, Title II, Part 1, § 201(b), 79 Stat. 353) provided for payment to States with an approved plan for maternal and child-health services and computation of amounts, and prescribed general availability of services by July 1, 1975, as requisite for payments for any period after June 30, 1966, prior to the general amendment of Title V by Act Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 921, and similar provisions were contained in 42 U.S.C. § 706. Provisions similar to those of prior § 704 were contained in § 512 of Act Aug. 14, 1935, ch 531, Title V, 49 Stat. 631, as amended, which formerly appeared as 42 U.S.C. § 712.

prior to the general amendment of Title V by Act Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 921.

Amendments:
1986. Act Apr. 7, 1986, in subsec. (b)(1), substituted "children with special health care needs" for "crippled children". 1987. Act Aug. 18, 1987 (effective as provided by § 15 of such Act, which appears as 42 USCS § 1320a-7 note), in subsec. (b), in para. (4), deleted "or" following "funds;", in para. (5), substituted "; or" for the concluding period, and added para. (6).
1988. Act July 1, 1988 amended Act Dec. 22, 1987, P.L. 100-203, Title IV, Subtitle B, Part 2, § 4118(e)(12) [amending this section], effective as if included in Act Dec. 22, 1987, as provided by § 411(a)(2) of the 1988 Act, which appears as 1 USCS § 106 note, in subsec. (b)(6), by substituting "under this title or title XVIII, XIX, or XX pursuant to section 1128, 1128A, 1156, 1842(j)(2), or 1867(d)(2)" for "pursuant to section 1128 or section 1128A from participation in the program under this title". Act Oct. 13, 1988 amended Act July 1, 1988, P.L. 100-360, Title IV, Subtitle B, § 411(k)(10)(D), 102 Stat. 796 [amending this section], effective as if included in Act July 1, 1988 as provided by § 608(g) of the later 1988 Act, which appears as a note to this section, in subsec. (b)(6), in subparas. (A) and (B), by substituting "or 1842(j)(2)" for "1842(j)(2), or 1867(d)(2)". 1989. Act Dec. 19, 1989, § 6503(a) (applicable as provided by § 6510 of such Act, which appears as 42 USCS § 701 note), in subsec. (a), inserted "and including payment of salaries and other related expenses of National Health Service Corps personnel"; and added subsec. (d). Section 6503(c)(4) of such Act (applicable as above), in subsec. (a), substituted "its application" for "its description of intended expenditures and statement of assurances" and substituted "505(a)" for "505".

Other provisions:
Effective date of § 608(a)-(f) of Act Oct. 13, 1988. Act Oct. 13, 1988, P.L. 100-485, Title VI, § 608(g), 102 Stat. 2424, provides: "(1) The amendments made by subsections (a), (b), and (d) [for full classification, consult USCS Tables volumes] shall be effective as if included in the enactment of the Medicare Catastrophic Coverage Act of 1988 [for full classification, consult USCS Tables volumes].

"(2) The amendments made by subsection (c) and subsection (f) [for full classification, consult USCS Tables volumes] (other than paragraph (5) [amending 42 USCS § 426(a) and adding 42 USCS § 426 note]) shall take effect on the date of the enactment of this Act.".

42 USCS § 705

§ 705. Application for block grant funds

(a) In order to be entitled to payments for allotments under section 502 [42 USCS § 702] for a fiscal year, a State must prepare and transmit to the Secretary an application (in a standardized form specified by the Secretary) that—

(1) contains a statewide needs assessment (to be conducted every 5 years) that shall identify (consistent with the health status goals and national health objectives referred to in section 501(a) [42 USCS § 701 (a)] the need for—

(A) preventive and primary care services for pregnant women, mothers, and infants up to age one;

(B) preventive and primary care services for children; and

(C) services for children with special health care needs (as specified in section 501(a)(1)(D) [42 USCS § 701 (a)(1)(D)]);

(2) includes for each fiscal year—

(A) a plan for meeting the needs identified by the statewide needs assessment under paragraph (1); and

(B) a description of how the funds allotted to the State under section 502(c) [42 USCS § 702(c)] will be used for the provision and coordination of services to carry out such plan that shall include—

(i) subject to paragraph (3), a statement of the goals and objectives consistent with the health status goals and national health objectives referred to in section 501(a) [42 USCS § 701 (a)] for meeting the needs specified in the State plan described in subparagraph (A);

(ii) an identification of the areas and localities in the State in which services are to be provided and coordinated;

(iii) an identification of the types of services to be provided and the categories or characteristics of individuals to be served; and

(iv) information the State will collect in order to prepare reports required under section 506(a) [42 USCS § 706(a)];

(3) except as provided under subsection (b), provides that the State will use—

(A) at least 30 percent of such payment amounts for preventive and primary care services for children, and

(B) at least 30 percent of such payment amounts for services for children with special health care needs (as specified in section 501(a)(1)(D) [42 USCS § 701 (a)(1)(D)];

(4) provides that a State receiving funds for maternal and child health services under this title shall maintain the level of

funds being provided solely by such State for maternal and child health programs at a level at least equal to the level that such State provided for such programs in fiscal year 1989; and

(5) provides that—

(A) the State will establish a fair method (as determined by the State) for allocating funds allotted to the State under this title [42 USCS §§ 701 et seq.] among such individuals, areas, and localities identified under paragraph (1)(A) as needing maternal and child health services, and the State will identify and apply guidelines for the appropriate frequency and content of, and appropriate referral and followup with respect to, health care assessments and services financially assisted by the State under this title [42 USCS §§ 701 et seq.] and methods for assuring quality assessments and services;

(B) funds allotted to the State under this title [42 USCS §§ 701 et seq.] will only be used, consistent with section 508 [42 USCS § 708], to carry out the purposes of this title [42 USCS §§ 701 et seq.] or to continue activities previously conducted under the consolidated health programs (described in section 501(b)(1) [42 USCS § 701 (b)(1)]);

(C) the State will use—

(i) special consideration (where appropriate) for the continuation of the funding of special projects in the State previously funded under this title [42 USCS § 701 et seq.] (as in effect before August 31, 1981), and

(ii) a reasonable proportion (based upon the State's previous use of funds under this title [42 USCS §§ 701 et seq.]) of such sums to carry out the purposes described in subparagraphs (A) through (D) of section 501(a)(1) [42 USCS § 701 (a)(1)(A)-(D)];

(D) if any charges are imposed for the provision of health services assisted by the State under this title [42 USCS §§ 701 et seq.], such charges (i) will be pursuant to a public schedule of charges, (ii) will not be imposed with respect to services provided to low income mothers or children, and (iii) will be adjusted to reflect the income, resources, and family size of the individual provided the services;

(E) the State agency (or agencies) administering the State's program under this title [42 USCS §§ 701 et seq.] will provide for a toll-free telephone number (and other appropriate methods) for the use of parents to access information about health care providers and practitioners who provide health care services under this title [42 USCS §§ 701 et seq.] and title XIX [42 USCS §§ 1396 et seq.] and about other relevant health and health-related providers and practitioners; and

(F) the State agency (or agencies) administering the State's program under this title [42 USCS §§ 701 et seq.] will—

(i) participate in the coordination of activities between such program and the early and periodic screening, diagnostic, and treatment program under Section 1905(a)(4)(B) [42 USCS § 1396d(a)(4)(B)] (including the establishment of periodicity and content standards for early and periodic screening, diagnostic, and treatment services), to ensure that such programs are carried out without duplication of effort,

(ii) participate in the arrangement and carrying out of coordination agreements described in section 1902(a)(11) [42 USCS § 1396(a)(11)] (relating to coordination of care and services available under this title [42 USCS §§ 701 et seq.] and title XIX [42 USCS §§ 1396 et seq.]),

(iii) participate in the coordination of activities within the State with programs carried out under this title [42 USCS §§ 701 et seq.] and related Federal grant programs (including supplemental food programs for mothers, infants, and children, related education programs, and other health, developmental disability, and family planning programs), and

(iv) provide, directly and through their providers and institutional contractors, for services to identify pregnant women and infants who are eligible for medical assistance under subparagraph (A) or (B) of section 1902(l)(1) [42 USCS § 1396a(l)(1)] and, once identified, to assist them in applying for such assistance. The application shall be developed by, or in consultation with, the State maternal and child health agency and shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during its development and after its transmittal.

(b) The Secretary may waive the requirement under subsection (a)(3) that a State's application for a fiscal year provide for the use of funds for specific activities if for that fiscal year—

(1) the Secretary determines—

(A) on the basis of information provided in the State's most recent annual report submitted under section 506(a)(1) [42 USCS § 706(a)(1)], that the State has demonstrated an extraordinary unmet need for one of the activities described in subsection (a)(3), and

(B) that the granting of the waiver is justified and will assist in carrying out the purposes of this title [42 USCS §§ 701 et seq.]; and

(2) the State provides assurances to the Secretary that the

State will provide for the use of some amounts paid to it under section 503 [42 USCS § 703] for the activities described in subparagraphs (A) and (B) of subsection (a)(3) and specifies the percentages to be substituted in each of such subparagraphs.

HISTORY: (Aug. 14, 1935, ch 531, Title V, § 505, as added Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(a) in part, 95 Stat. 822; Sept. 3, 1982, P.L. 97-248, Title I, Subtitle B, § 137(b)(3), (4), 96 Stat. 377.)
(As amended Dec. 19, 1989, P.L. 101-239, Title VI, Subtitle C, §§ 6501(b), 6503(b), 103 Stat. 2275, 2276.)

HISTORY: ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:
A prior § 705 (Act Aug. 14, 1935, ch 531, Title V [Part 1], § 505, 49 Stat. 631, as added Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 923; Jan. 2, 1968, P.L. 90-248, Title III, § 304(a), 81 Stat. 929; July 10, 1972, P.L. 92-345, § 2(a)-(c), 86 Stat. 456, 457; Oct. 30, 1972, P.L. 92-603, Title II, §§ 221(c)(1), 232(b), 239(c), 86 Stat. 1389, 1411, 1417; July 1, 1973, P.L. 93-53, § 4(a)(3)-(5), 87 Stat. 135; Dec. 5, 1980, P.L. 96-499, Title IX, Part A, Subpart II, § 914(c)(1), 94 Stat. 2622) which related to the contents of State plans, approval by the Secretary, etc., was omitted in the general revision of this Title [42 USCS §§ 701 et seq.] by Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(a) in part, 95 Stat. 822. For effective date, savings and transitional provisions, see Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2194, 95 Stat. 828, which appears as 42 USCS § 701 note. For effective dates of prior amendments, see Acts Jan. 2, 1968, Title III, § 304(b), 81 Stat. 929; Oct. 30, 1972, P.L. 92-603, Title II, §§ 232(c), 239(d), 86 Stat. 1411, 1418; Sept. 3, 1982, P.L. 97-248, § 137(a)(2), 96 Stat. 381. Another prior § 705 (Act Aug. 14, 1935, ch 531, Title V, § 505, 49 Stat. 631; Aug. 28, 1950, ch 809, Title III, Part 6, § 361(e), 64 Stat. 558, provided for stopping payment on failure to comply with plan for maternal and child health services prior to the general amendment of Title V by Act Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 921, and similar provisions were contained in 42 U.S.C. § 707. Provisions similar to those of prior § 705 were contained in §§ 503, 513 of Act Aug. 14, 1935, ch 531, Title V, 49 Stat. 630, 632, as amended, which formerly appeared as 42 U.S.C. §§ 703, 713, prior to the general amendment and renumbering of Title V of Act Aug. 14, 1935, by Act Jan. 2, 1968, P.L. 90-248, § 301, 181 Stat. 924.

Amendments:
1982. Act Sept. 3, 1982, in para. (2), in subpara. (B), substituted "501(b)(1)" for "502(b)(1), and, in subpara. (D), substituted "any charges are imposed" for "the State imposes any charges". 1989.

Act Dec. 19, 1989, § 6501(b) (applicable as provided by § 6510 of such Act, which appears as 42 USCS § 701 note), in para. (2)(C)(ii), substituted "substituted subparagraphs (A) through (D) of section 501(a)(1)" for "paragraphs (1) through (3) of section 501(a)". Section 6503(b) of such Act (applicable as above) substituted the section catchline for one which read: "Description of intended expenditures and statement of assurances"; designated the existing text as subsec. (a); in subsec. (a) as so designated, in the introductory matter inserted "an application (in a standardized form specified by the Secretary) that", deleted para. (1) which read: "(1) a report describing the intended use of payments the State is to receive under this title for the fiscal year, including (A) a description of those populations, areas, and localities in the State which the State has identified as needing maternal and child health services, (B) a statement of goals and objectives for meeting those needs, (C) information on the types of services to be provided and the categories or characteristics of individuals to be served, and (D) data the State intends to collect respecting activities conducted with such payments; and", redesignated para. (2) as para. (5), and added new paras. (1)-(4), in para. (5) as so redesignated, in the introductory matter, substituted "provides" for "a statement of assurances that represents to the Secretary", in subpara. (A), substituted "establish" for "provide", in subpara. (C), substituted cl. (i) for one which read: "(i) a substantial proportion of the sums expended by the State for carrying out this title for the provision of health services to mothers and children, with special consideration given (where appropriate) to the continuation of the funding of special projects in the State previously funded under this title (as in effect before the date of the enactment of the Maternal and Child Health Services Block Grant Act [enacted Aug. 13, 1981]), and ", in subpara. (D), deleted "and" following "services;", redesignated subpara. (E) as subpara. (F) and added a new subpara. (E), in subpara. (F) as so redesignated, in the introductory matter, deleted "participate" following "will", in cl. (i), inserted "participate" preceding "in the", substituted "diagnostic" for "diagnosis" and "section 1905(a)(4)(B) (including the establishment of periodicity and content standards for early and periodic screening, diagnostic, and treatment services)" for "title XIX", in cl. (ii), inserted "participate", in cl. (iii), inserted "participate" and substituted ", and " for the concluding period, added cl. (iv), substituted the concluding matter for: "The description and statement shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and statement and after its transmittal. The description and statement shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in any element of such description or statement, and any revision shall be subject to the requirements of the preceding sentence.": and added subsec. (b).

Other provisions:
Application of amendments made by Act Sept. 3. 1982. Act Sept. 3. 1982. P.L. 97-248. Title I. Subtitle B. § 137(d)(2). 96 Stat. 381. which appears as 42 USCS § 1396a note. provided that the amendments made to this section by such Act are applicable as if originally included as a part of this section as added by Act Aug. 13. 1981. P.L. 97-35. 95 Stat. 357.

NOTES:
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Federal Procedure L Ed:
Health. Education. and Welfare. Fed Proc. L Ed. § 42:65.

42 USCS § 706

§ 706. Administrative and fiscal accountability

(a) Annual reporting requirements; form, etc.

(1) Each State shall prepare and submit to the Secretary annual reports on its activities under this title [42 USCS §§ 701 et seq.]. Each such report shall be prepared by, or in consultation with, the State maternal and child health agency. In order properly to evaluate and to compare the performance of different States assisted under this title [42 USCS §§ 701 et seq.] and to assure the proper expenditure of funds under this title [42 USCS §§ 701 et seq.], such reports shall be in such standardized form and contain such information (including information described in paragraph (2)) as the Secretary determines (after consultation with the States and the Comptroller General) to be necessary (A) to secure an accurate description of those activities, (B) to secure a complete record of the purpose for which funds were spent, of the recipients of such funds,[.] (C) to describe the extent to which the State has met the goals and objectives it set forth under section 505(a)(2)(B)(i) [42 USCS § 705(a)(2)(B)(i)] and the national health objectives referred to in section 501(a) [42 USCS § 701 (a)], and (D) to determine the extent to which funds were expended consistent with the State's application transmitted under section 505(a) [42 USCS § 705(a)]. Copies of the report shall be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

(2) Each annual report under paragraph (1) shall include the following information:

(A)(i) The number of individuals served by the State under this title [42 USCS §§ 701 et seq.] (by class of individuals).

(ii) The proportion of each class of such individuals which has health coverage.

(iii) The types (as defined by the Secretary) of services provided under this title [42 USCS §§ 701 et seq.] to individuals within each such class.

(iv) The amounts spent under this title [42 USCS §§ 701 et seq.] on each type of services, by class of individuals served.

(B) Information on the status of maternal and child health in the State, including—

(i) information (by county and by racial and ethnic group) on—

(I) the rate of infant mortality, and

(II) the rate of low-birth-weight births;

(ii) information (on a State-wide basis) on—

(I) the rate of maternal mortality,

(II) the rate of neonatal death,

(III) the rate of perinatal death,

(IV) the number of children with chronic illness and the type of illness,

(V) the proportion of infants born with fetal alcohol syndrome,

(VI) the proportion of infants born with drug dependency,

(VII) the proportion of women who deliver who do not receive prenatal care during the first trimester of pregnancy, and

(VIII) the proportion of children, who at their second birthday, have been vaccinated against each of measles, mumps, rubella, polio, diphtheria, tetanus, pertussis, Hib meningitis, and hepatitis B; and

(iii) information on such other indicators of maternal, infant, and child health care status as the Secretary may specify.

(C) Information (by racial and ethnic group) on—

(i) the number of deliveries in the State in the year, and

(ii) the number of such deliveries to pregnant women who were provided prenatal, delivery, or postpartum care under this title [42 USCS §§ 701 et seq.] or were entitled to benefits with respect to such deliveries under the State plan under title XIX [42 USCS §§ 1396 et seq.] in the year.

(D) Information (by racial and ethnic group) on—

(i) the number of infants under one year of age who were in the State in the year, and

(ii) the number of such infants who were provided services under this title [42 USCS §§ 701 et seq.] or were entitled to benefits under the State plan under title XIX [42 USCS §§ 1396 et seq.] at any time during the year.

(E) Information on the number of—

(i) obstetricians,

(ii) family practitioners,

(iii) certified family nurse practitioners,

(iv) certified nurse midwives,

(v) pediatricians, and

(vi) certified pediatric nurse practitioners,

who were licensed in the State in the year. For purposes of subparagraph (A), each of the following shall be considered to be a separate class of individuals: pregnant women, infants up to age one, children with special health care needs, other children under age 22, and other individuals.

(3) The Secretary shall annually transmit to the Committee

on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report that includes—

(A) a description of each project receiving funding under paragraph (2) or (3) of section 502(a) [42 USCS § 702(a)], including the amount of Federal funds provided, the number of individuals served or trained, as appropriate, under the project, and a summary of any formal evaluation conducted with respect to the project;

(B) a summary of the information described in paragraph (2)(A) reported by States;

(C) based on information described in paragraph (2)(B) supplied by the States under paragraph (1), a compilation of the following measures of maternal and child health in the United States and in each State:

(i) Information on—

(I) the rate of infant mortality, and

(II) the rate of low-birth-weight births.

Information under this clause shall also be compiled by racial and ethnic group.

(ii) Information on—

(I) the rate of maternal mortality,

(II) the rate of neonatal death,

(III) the rate of perinatal death,

(IV) the proportion of infants born with fetal alcohol syndrome,

(V) the proportion of infants born with drug dependency,

(VI) the proportion of women who deliver who do not receive prenatal care during the first trimester of pregnancy, and (VII) the proportion of children, who at their second birthday, have been vaccinated against each of measles, mumps, rubella, polio, diphtheria, tetanus, pertussis, Hib meningitis, and hepatitis B.

(iii) Information on such other indicators of maternal, infant, and child health care status as the Secretary has specified under paragraph (2)(B)(iii).

(iv) Information (by racial and ethnic group) on—

(I) the number of deliveries in the State in the year, and

(II) the number of such deliveries to pregnant women who were provided prenatal, delivery, or postpartum care under this title [42 USCS §§ 701 et seq.] or were entitled to benefits with respect to such deliveries under the State plan under title XIX [42 USCS §§ 1396 et seq.] in the year;

(D) based on information described in subparagraphs (C), (D), and (E) of paragraph (2) supplied by the States under paragraph (1), a compilation of the following information in the United States and in each State:

(i) Information on—

(I) the number of deliveries in the year, and

(II) the number of such deliveries to pregnant women who were provided prenatal, delivery, or postpartum care under this title [42 USCS §§ 701 et seq.] or were entitled to benefits with respect to such deliveries under a State plan under title XIX [42 USCS §§ 1396 et seq.] in the year.

Information under this clause shall also be compiled by racial and ethnic group.

(ii) Information on—

(I) the number of infants under one year of age in the year, and

(II) the number of such infants who were provided services under this title [42 USCS §§ 701 et seq.] or were entitled to benefits under a State plan under title XIX [42 USCS §§ 1396 et seq.] at any time during the year.

Information under this clause shall also be compiled by racial and ethnic group.

(iii) Information on the number of—

(I) obstetricians,

(II) family practitioners,

(III) certified family nurse practitioners,

(IV) certified nurse midwives,

(V) pediatricians, and

(VI) certified pediatric nurse practitioners,

(VI) certified pediatric nurse practitioners,

who were licensed in a State in the year; and

(E) an assessment of the progress being made to meet the health status goals and national health objectives referred to in section 501(a) [42 USCS § 701 (a)]

(b) Audits; implementation, standards, etc.

(1) Each State shall, not less often than once every two years, audit its expenditures from amounts received under this title [42 USCS §§ 701 et seq.]. Such State audits shall be conducted by an entity independent of the State agency administering a program funded under this title [42 USCS §§ 701 et seq.] in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions and generally accepted auditing standards. Within 30 days following the completion of each audit report, the State shall submit a copy of that audit report to the Secretary.

(2) Each State shall repay to the United States amounts found by the Secretary, after notice and opportunity for a hearing to the State, not to have been expended in accordance

with this title [42 USCS §§ 701 et seq.] and, if such repayment is not made, the Secretary may offset such amounts against the amount of any allotment to which the State is or may become entitled under this title [42 USCS §§ 701 et seq.] or may otherwise recover such amounts.

(3) The Secretary may, after notice and opportunity for a hearing, withhold payment of funds to any State which is not using its allotment under this title [42 USCS §§ 701 et seq.] in accordance with this title [42 USCS §§ 701 et seq.]. The Secretary may withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

(c) Public inspection of reports and audits. The State shall make copies of the reports and audits required by this section available for public inspection within the State.

(d) Access to books, records, etc.; creation of new records.

(1) For the purpose of evaluating and reviewing the block grant established under this title [42 USCS §§ 701 et seq.], the Secretary and the Comptroller General shall have access to any books, accounts, records, correspondence, or other documents that are related to such block grant, and that are in the possession, custody, or control of States, political subdivisions thereof, or any of their grantees.

(2) In conjunction with an evaluation or review under paragraph (1), no State or political subdivision thereof (or grantee of either) shall be required to create or prepare new records to comply with paragraph (1).

(3) For other provisions relating to deposit, accounting, reports, and auditing with respect to Federal grants to States, see section 6503(b) of title 31, United States Code [31 USCS § 6503(b)].

HISTORY: (Act Aug. 14, 1935, ch 531, Title V, § 506, as added Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(a) in part, 95 Stat. 823; July 18, 1984, P.L. 98-369, Division B, Title III, Subtitle B, § 2373(a)(2), 98 Stat. 1111.)
(As amended Dec. 19, 1989, P.L. 101-239, Title VI, Subtitle C, §§ 6503(c)(3), (4), 6504, 103 Stat. 2278.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:
A prior § 706 (Act Aug. 14, 1935, ch 531, Title V, § 506, as added Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 924; Oct. 30, 1972, P.L. 92-603, Title II, §§ 221(c)(2), 224(d), 229(d), 233(d), 237(b), 86 Stat. 1389, 1395, 1410, 1412, 1416) was omitted in the general revision of this Title by Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(a) in part, 95 Stat. 823. Such section provided for computation of the amount of payments to States.

and similar provision are now contained in 42 USCS § 703. For effective date, savings and transitional provisions, see Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2194, 95 Stat. 828, which appears as 42 USCS § 701 note. Provisions similar to those of prior § 706 were contained in §§ 504, 514, of Act Aug. 14, 1935, ch 531, Title V, 49 Stat. 630, 632, as amended, which formerly appeared as 42 U.S.C. §§ 704, 714, prior to the general amendment and renumbering of Title V by Act Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 921. The bracketed comma appears in subsec. (a)(1)(B) to indicate the probable intention of Congress to have omitted such punctuation.

Amendments:
1984. Act July 18, 1984, in subsec. (d)(3), substituted "section 6503(b) of title 31, United States Code" for "section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212)".

Other provisions:
Reports to Congress; activities of States receiving allotments and study of alternative formulas for allotment. Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(b), 95 Stat. 826, provided: "(b)(1) The Secretary of Health and Human Services shall, no later than October 1, 1984, report to the Congress on the activities of States receiving allotments under title V of the Social Security Act [42 USCS §§ 701 et seq.] (as amended by this section) and include in such report any recommendations for appropriate changes in legislation.

"(2) The Secretary of Health and Human Services, in consultation with the Comptroller General, shall examine alternative formulas, for the allotment of funds to States under section 502(b) of the Social Security Act [42 USCS § 702(b)] (as amended by this section) which might be used as a substitute for the method of allotting funds described in such section, which provide for the equitable distribution of such funds to States (as defined for purposes of such section), and which take into account—

"(A) the populations of the States,

"(B) the number of live births in the States,

"(C) the number of crippled children in the States,

"(D) the number of low income mothers and children in the States,

"(E) the financial resources of the various States, and

"(F) such other factors as the Secretary deems appropriate,

and shall report to the Congress thereon not later than June 30, 1982.".

1989. Act Dec. 19, 1989, § 6503(c)(3), (4) (applicable as provided by § 6510 of such Act, which appears as 42 USCS § 701 note), in subsec. (a)(1), substituted "application" for "description and statement" and substituted "505(a)" for "505". Section 6504 of such Act (applicable as above), in subsec. (a), in para. (1), in the introductory matter, inserted the sentence which begins "Each such report. . .", substituted "be in such standardized form and contain such information (including information described in paragraph (2))" for "be in such form and contain such information", substituted ". (C) to describe the extent to which the State has met the goals and objectives it set forth under section 505(a)(2)(B)(i) and the national health objectives referred to in section 501(a), and (D)" for "and of the progress made toward achieving the purposes of this title, and (C)", redesignated para. (2) as para. (3), added a new para. (2), and substituted a new para. (3) for para. (3) as so redesignated, which read: "(3) The Secretary shall annually report to the Congress on activities funded under section 502(a) and shall provide for transmittal of a copy of such report to each State.".

NOTES:
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Federal Procedure L Ed:
Health, Education, and Welfare, Fed Proc, L Ed, § 42:71.

42 USCS § 707

§ 707. Criminal penalty for false statements

(a) Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payment may be made by a State from funds allotted to the State under this title [42 USCS §§ 701 et seq.], or

(2) having knowledge of the occurrence of any event affecting his initial or continued right to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized, shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

(b) For civil monetary penalties for certain submissions of false claims, see section 1128A of this Act [42 USCS § 1320a-7a].

HISTORY: (Aug. 14, 1935, ch 531, Title V, § 507, as added Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(a) in part, 95 Stat. 824.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:
A prior § 707 (Act Aug. 14, 1935, ch 531, Title V, § 507, as added Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 925) was omitted in the general revision of this Title by Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(a) in part, 95 Stat. 824. Such section provided for operation of State plans, and similar provisions are now contained in 42 USCS § 706. For effective date, savings and transitional provisions, see Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2194, 95 Stat. 828, which appears as 42 USCS § 701 note. Provisions similar to those of prior § 707 were contained in §§ 505, 515, of Act Aug. 14, 1935, ch 531, Title V, 49 Stat. 631, 633, as amended which formerly appeared as 42 U.S.C. §§ 705, 715, prior to the general amendment and renumbering of Title V by Act Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 921.

42 USCS § 708

§ 708. Nondiscrimination provisions

(a) Federally funded activities.

(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 [42 USCS §§ 6101 et seq.], on the basis of handicap under section 504 of the Rehabilitation Act of 1973 [29 USCS § 794], on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 [42 USCS §§ 2000d et seq.], programs and activities funded in whole or in part with funds made available under this title [42 USCS §§ 701 et seq.] are considered to be programs and activities receiving Federal financial assistance.

(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this title [42 USCS §§ 701 et seq.].

(b) Compliance. Whenever the Secretary finds that a State, or an entity that has received a payment from an allotment to a State under section 502(c) [42 USCS § 702(c)], has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 [42 USCS §§ 2000d et seq.], the Age Discrimination Act of 1975 [42 USCS §§ 6101 et seq.], or section 504 of the Rehabilitation Act of 1973 [29 USCS § 794], as may be applicable, or

(3) take such other action as may be provided by law.

(c) Authority of Attorney General; civil actions. When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever he has reason to believe that the entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

HISTORY: (Aug. 14, 1935, ch 531, Title V, § 508, as added Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(a), 95 Stat. 825.)

(As amended Dec. 19, 1989, P.L. 101-239, Title VI, Subtitle C, § 6502(b), 103 Stat. 2276.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:
"Title IX of the Education Amendments of 1972", referred to in this section, is Title IX of Act June 23, 1972, P.L. 92-318, 86 Stat. 235, which appears generally as 20 USCS §§ 1681 et seq. For full classification of such Title, consult USCS Tables volumes.

Explanatory notes:
A prior § 708 (Aug. 14, 1935, ch 531, Title V, § 508, as added Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 926; July 10, 1972, P.L. 92-345, § 2(d), 86 Stat. 457; July 1, 1973, P.L. 93-53, § 4(a)(6), 87 Stat. 135) was omitted in the general revision of this Title by Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(a), 95 Stat. 825. Such section provided for special project grants for maternity and infant care. For effective date, savings and transitional provisions, see Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2194, 95 Stat. 828, which appears as 42 USCS § 701 note.
Provisions similar to those of prior § 708 were contained in § 531 of Act Aug. 14, 1935, ch 531, Title V, as added Oct. 24, 1963, P.L. 88-156, § 4, 77 Stat. 274 which formerly appeared as 42 U.S.C. § 729 prior to the general amendment and renumbering of Title V by Act Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 921.

Amendments:
1989. Act Dec. 19, 1989, § 6502(b) (applicable as provided by § 6510 of such Act, which appears as 42 USCS § 701 note), in subsec. (b), in the introductory matter, substituted "502(c)" for "505(b)".

NOTES:
RESEARCH GUIDE

Federal Procedure L Ed:
Health, Education, and Welfare, Fed Proc, L Ed, §§ 42:68, 42:71.

Am Jur:
• 45A Am Jur 2d, Job Discrimination § 29.

42 USCS § 709

§ 709. Administration of Federal and State programs

(a) The Secretary shall designate an identifiable administrative unit with expertise in maternal and child health within the Department of Health and Human Services, which unit shall be responsible for—

(1) the Federal program described in section 502(a) [42 USCS § 702(a)];

(2) promoting coordination at the Federal level of the activities authorized under this title [42 USCS §§ 701 et seq.] and under title XIX of this Act [42 USCS §§ 1396 et seq.], especially early and periodic screening, diagnosis and treatment, related activities funded by the Departments of Agriculture and Education, and under health block grants and categorical health programs, such as immunizations, administered by the Secretary;

(3) disseminating information to the States in such areas as preventive health services and advances in the care and treatment of mothers and children;

(4) providing technical assistance, upon request, to the States in such areas as program planning, establishment of goals and objectives, standards of care, and evaluation and in developing consistent and accurate data collection mechanisms in order to report the information required under section 506(a)(2) [42 USCS § 706(a)(2)];

(5) in cooperation with the National Center for Health Statistics and in a manner that avoids duplication of data collection, collection, maintenance, and dissemination of information relating to the health status and health service needs of mothers and children in the United States;

(6) assisting in the preparation of reports to the Congress on the activities funded and accomplishments achieved under this title [42 USCS §§ 701 et seq.] from the information required to be reported by the States under sections 505(a) and 506 [42 USCS §§ 705(a), 706]; and

(7) assisting States in the development of care coordination services (as defined in section 501(b)(3) [42 USCS § 701 (b)(3)]); and

(8) developing and making available to the State agency (or agencies) administering the State's program under this title a national directory listing by State the toll-free numbers described in section 505(a)(5)(E) [42 USCS § 705(a)(5)(E)].

(b) The State health agency of each State shall be responsible for the administration (or supervision of the administration) of programs carried out with allotments made to the State under this title [42 USCS §§ 701 et seq.], except that, in the case of a State which on July 1, 1967, provided for administration (or supervision thereof) of the State plan under this title [42 USCS §§

701 et seq.] (as in effect on such date) by a State agency other than the State health agency, that State shall be considered to comply [with] the requirement of this subsection if it would otherwise comply but for the fact that such other State agency administers (or supervises the administration of) any such program providing services for children with special health care needs.

HISTORY: (Aug. 14, 1935, ch 531, Title V, § 509, as added Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(a) in part, 95 Stat. 825.)
(As amended Apr. 7, 1986, P.L. 99-272, Title IX, Subtitle B, § 9527(e) in part, 100 Stat. 219; Dec. 19, 1989, P.L. 101-239, Title VI, Subtitle C, §§ 6503(c)(4), 6505, 103 Stat. 2278, 2281.)

HISTORY: ANCILLARY LAWS AND DIRECTIVES

Explanatory notes:
The bracketed word "with" is inserted in subsec. (b) as the word probably intended by Congress. A prior § 709 (Act Aug. 14, 1935, ch 531, Title V, § 509, as added Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 926; July 10, 1972, P.L. 92-345, § 2(e), 86 Stat. 457; Oct. 30, 1972, P.L. 92-603, Title II, §§ 221(c)(3), 233(e), 86 Stat. 1389, 1412; July 1, 1973, P.L. 93-53, § 4(a)(7), 87 Stat. 135) was omitted in the general revision of this Title by Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(a) in part, 95 Stat. 825. Such section provided for special project grants for health of school and preschool children. For effective date, savings and transitional provisions, see Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2194, 95 Stat. 828, which appears as 42 USCS § 701 note.
Provisions similar to those of prior § 709, were contained in § 532 of Act Aug. 14, 1935, ch 531, Title V, as added July 30, 1965, P.L. 89-97, Title II, § 205(3), 79 Stat. 354, which formerly appeared as 42 U.S.C. § 729-1 prior to the general amendment of Title V by Act Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 921.

Amendments:
+ 1986. Act Apr. 7, 1986, in subsec. (b), substituted "children with special health care needs" for "crippled children".
1989. Act Dec. 19, 1989, § 6503(c)(4) (applicable as provided by § 6510 of such Act, which appears as 42 USCS § 701 note), in subsec. (a)(6), substituted "505(a)" for "505". Section 6505 of such Act (applicable as above), in subsec. (a), in para. (4), inserted "and in developing consistent and accurate data collection mechanisms in order to report the information required under section 506(a)(2)", in para. (5) deleted "and" following "States;", in para. (6), substituted "; and " for a concluding period, and added paras. (7) and (8).

Other provisions:
Report to Congress; evaluation of program. Act July 30, 1965, P.L. 89-97, Title II, § 206, 79 Stat. 354, provided "The Secretary shall submit to the President for transmission to the Congress before July 1, 1969, a full report of the administration of the provisions of section 532 of the Social Security Act (as added by section 205 of this Act) [former 42 U.S.C. § 729-1, later 42 USCS §§ 701, 702(1)(B) and this section], together with an evaluation of the program established thereby and his recommendations as to continuation of and modifications in that program.".

42 USCS § 710-716

§§ 710-716. [Omitted]

HISTORY: ANCILLARY LAWS AND DIRECTIVES

These sections (§§ 710-715-Act Aug. 14, 1935, ch 531, Title V, § 510, as added Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 927; July 10, 1972, P.L. 92-345, § 2(f), 86 Stat. 457; July 1, 1973, P.L. 93-53, § 4(a)(8), 87 Stat. 136; § 716-Act Aug. 14, 1935, ch 531, Title V, § 516, as added July 1, 1973, P.L. 93-53, § 4(b), 87 Stat. 136) were omitted in the general revision of this Title by Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2192(a) in part, 95 Stat. 825. For effective date, savings and transitional provisions, see Act Aug. 13, 1981, P.L. 97-35, Title XXI, Subtitle D, § 2194, 95 Stat. 828, which appears as 42 USCS § 701 note. Section 710 provided for special grants for dental health of children; § 711 provided for training of personnel; § 712 provided for research projects relating to maternal and child health services and crippled children's services; § 713 provided for administration; § 714 provided for definitions; and § 715 provided for observance of religious beliefs.

Explanatory notes:
A prior § 711 (Act Aug. 14, 1935, ch 531, Title V [Part 2], § 511, 49 Stat. 631; Aug. 10, 1939, ch 666, Title V, § 504, 53 Stat. 1380; Aug. 10, 1946, ch 951, Title IV, § 401(b)(4), 60 Stat. 986; Aug. 28, 1950, ch 809, Title III, Part 3, § 331(c), Part 6, § 361(e), 64 Stat. 551, 558; Aug. 28, 1958, P.L. 85-840, Title VI, § 603(a), 72 Stat. 1055; Sept. 13, 1960, P.L. 86-778, Title VII, § 707(a)(2)(A), 74 Stat. 995; Oct. 24, 1963, P.L. 88-156, § 3(a), 77 Stat. 273; July 30, 1965, P.L. 89-97, Title II, Part 1, § 202(a), 79 Stat. 353) authorized appropriations, for services for crippled children, prior to the general amendment of Title V by Act Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 921, and similar provisions were contained in 42 U.S.C. § 701. Provisions similar to those of prior § 711 were contained in § 516 of Act Aug. 14, 1935, ch 531, Title V, as added July 30, 1965, P.L. 89-97, Title II, § 203(a), 79 Stat. 353, which formerly appeared as 42 U.S.C. § 716 prior to the general amendment and renumbering of Title V by Act Jan. 2, 1968, P.L. 90-248, Title III, § 301, 81 Stat. 921. A prior § 712 (Act Aug. 14, 1935, ch 531, Title V [Part 2], § 512, 49 Stat. 631; Aug. 10, 1939, ch 666, Title V, § 505, 53 Stat. 1380; Aug. 10, 1946, ch 951, Title IV, § 401(b)(5), (6); 60 Stat. 986; Aug. 28, 1950, ch 809, Title III, Part 3, § 331(d), 64 Stat. 552; Aug. 28, 1958, P.L. 85-840, Title VI, § 603(b), (c), 72 Stat. 1055; Sept. 13, 1960, P.L. 86-778, Title VII, § 707(a)(2)(B), (C), (b)(2)(A), 74 Stat. 996; Oct. 24, 1963, P.L. 88-156, § 3(b), (c), 77 Stat. 274 provided for allotment to States for services for crippled children, and similar provisions were contained in 42

U.S.C. § 704. Provisions similar to those of prior § 712 were contained in § 533 [532] of Act Aug. 14. 1935. ch 531. Title V. as added Oct. 24. 1963. P.L. 88-156. § 4. 77 Stat. 274; July 30. 1965. P.L. 89-97. Title II. § 205(2). 79 Stat. 354 which formerly appeared as 42 U.S.C. § 729a prior to the general amendment and renumbering of Title V by Act Jan. 2. 1968. P.L. 90-248. Title III. § 301. 81 Stat. 921. A prior § 713 (Act Aug. 14. 1935. ch 531. Title V [Part 2]. § 513. 49 Stat. 632; Aug. 10. 1939. ch 666. Title V. § 506. 53 Stat. 1381; Aug. 28. 1950. ch 809. Title III. Part 6. § 361(e). 64 Stat. 558; July 30. 1965. P.L. 89-97. Title II. Part 1. § 204(b). 79 Stat. 354. provided for contents of State plans for services for crippled children and their approval by the Administrator prior to the general amendment of Title V by Act Jan. 2. 1968. P.L. 90-248. Title III. § 301. 81 Stat. 921. and similar provisions were contained in 42 U.S.C. § 705. Provisions similar to those of prior § 713 were contained in § 541 of Act Aug. 14. 1935. ch 531. Title V. 49 Stat. 634. as amended. which formerly appeared as 42 U.S.C. § 731 prior to the general amendment of Title V by Act Jan. 2. 1968. P.L. 90-248. Title III. § 301. 81 Stat. 921. A prior § 714 (Act Aug. 14. 1935. ch 531. Title V [Part 2]. § 514. 49 Stat. 632; Aug. 10. 1939. ch 666. Title V. § 507(a). (b). 53 Stat. 1381; Aug. 28. 1950. ch 809. Title III. Part 6. § 361(e). 64 Stat. 558; Sept. 13. 1960. P.L. 86-778. Title VII. § 707(b)(2)(B). 74 Stat. 996; July 30. 1965. P.L. 89-97. Title II. Part 1. §§ 202(b). 203(b). 79 Stat. 353. 354. provided for payment to States with an approved plan for services for crippled children. computation of amounts. and prescribed general availability of services by July 1. 1975. as requisite for payments for any period after June 30. 1966 prior to the general amendment of Title V by Act Jan. 2. 1968. P.L. 90-248. Title III. § 301. 81 Stat. 921. and similar provisions were contained in 42 U.S.C. § 706. A prior § 715 (Act Aug. 14. 1935. ch 531. Title V [Part 2]. § 515. 49 Stat. 633; Aug. 28. 1950. ch 809. Title III. Part 6. § 361(e). 64 Stat. 558) provided for stopping payment on failure to comply with State plan for services for crippled children prior to the general amendment of Title V by Act Jan. 2. 1968. P.L. 90-248. Title III. § 301. 81 Stat. 921. and similar provisions were contained in 42 U.S.C. § 707. A prior § 716 (Act Aug. 14. 1935. ch 531. Title V. Part 2. § 516. as added July 30. 1965. P.L. 89-97. Title II. Part 1. § 203(a). 79 Stat. 353) was omitted in the general amendment of Title V by Jan. 2. 1968. P.L. 90-248. Title III. § 301. 81 Stat. 921. Such section authorized appropriations for the training of professional personnel for health and related care of crippled children. and similar provisions were contained in 42 U.S.C. §§ 702. 711. Other provisions: Supplemental allotments for the fiscal year ending June 30. 1974. Act June 1. 1973. P.L. 93-53. § 4(c). 87 Stat. 136. authorized a State. for the fiscal year ending June 30. 1974. to receive an additional supplemental allotment to match the excess of the amount of the allotments which such State would have received under 42 USCS §§ 703. 704. for such year if section 4(a) of Act June 1, 1973, P.L. 93-53, which amended 42 USCS §§ 702, 705, 708-710, had not been enacted over the aggregate of the allotments which such State actually received under such sections plus the aggregate of the grants received under 42 USCS §§ 708, 709, 710 for the fiscal year ending June 30, 1973, and authorized appropriations necessary for the supplemental allotments.

APPROPRIATIONS HISTORY, 1935–1995

Year	Title V HEALTH or MCH BLOCK GRANT Totals 1/	MCH (A&B) PROGRAM	CCS (A&B) PROGRAM	EMIC Program	Special Projects Total 3/	Section 516 4/	Research Grants	Training Grants	SPRANS Grants 2/	CISS Grants 2/
		or MCH BLOCK GRANT (85%) Totals 2/								
1936	2.767.000	1.580.000	1.187.000							
1937	6.650.000	3.800.000	2.850.000							
1938	6.650.000	3.800.000	2.850.000							
1939	6.650.000	3.800.000	2.850.000							
1940	8.150.000	4.800.000	3.350.000							
1941	9.690.000	5.820.000	3.870.000							
1942	9.690.000	5.820.000	3.870.000							
1943	10.890.000	5.820.000	3.870.000	1.200.000						
1944	39.390.000	5.820.000	3.870.000	29.700.000						
1945	54.690.000	5.820.000	3.870.000	45.000.000						
1946	47.740.000	5.820.000	3.870.000	38.050.000						
1947	29.400.000	11.000.000	7.500.000	10.900.000						
1948	20.650.000	11.000.000	7.500.000	2.150.000						
1949	19.250.000	11.000.000	8.250.000							
1950	18.500.000	11.000.000	7.500.000							
1951	23.175.000	13.200.000	9.975.000							
1952	23.909.600	12.524.100	11.385.500							
1953	24.229.077	12.746.579	11.482.498							
1954	22.771.100	11.927.700	10.843.400							
1955	22.771.100	11.927.700	10.843.400							
1956	26.927.700	11.927.700	15.000.000							
1957	31.000.000	16.000.000	15.000.000							
1958	31.500.000	16.500.000	15.000.000							
1959	33.000.000	16.500.000	16.500.000							
1960	33.500.000	17.500.000	16.000.000							
1961	38.167.000	18.167.000	20.000.000							
1962	50.000.000	25.000.000	25.000.000							
1963	50.000.000	25.000.000	25.000.000							
1964	66.500.000	30.000.000	30.000.000		5.000.000		1.500.000			
1965	88.000.000	35.000.000	35.000.000		15.000.000		3.000.000			
1966	139.000.000	45.000.000	45.000.000		45.000.000		4.000.000			
1967	173.900.000	50.000.000	50.000.000		65.000.000		4.900.000	4.000.000		
1968	179.900.000	50.000.000	50.000.000		67.000.000		5.900.000	7.000.000		
1969	209.200.000	50.000.000	57.000.000		87.000.000		6.200.000	9.000.000		
1970	221.510.000	50.000.000	58.000.000		98.625.000		5.885.000	9.000.000		
1971	218.285.000	59.250.000	58.000.000		83.350.000		5.885.000	11.200.000		
1972	234.636.000	59.250.000	62.272.000		92.008.000		6.035.000	15.071.000		
1973	258.868.000	60.778.000	64.900.000		111.273.000		6.035.000	15.882.000		
1974	267.868.000	60.778.000	64.900.000		111.273.000	7.000.000	6.035.000	17.882.000		
1975	303.340.000	177.051.000	64.900.000		10.472.000 5/	25.000.000	8.035.000	17.882.000		
1976	319.408.000	192.059.717	76.500.000			27.140.283	5.300.000	18.408.000		
1976 6/	102.329.000	54.742.540	26.251.390			6.785.070	790.000	13.800.000		
1977	345.708.000	203.035.524	91.500.000			22.464.476	5.300.000	23.408.000		
1978	381.854.000	214.370.030	97.500.000			20.629.970	5.300.000	24.054.000		
1979	377.677.000	224.300.430	102.100.000			19.099.570	5.300.000	26.877.000		

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Year	Title V HEALTH or MCH BLOCK GRANT Totals 1/	MCH (AAH) PROGRAM or MCH BLOCK GRANT (85%) Totals 2/	CCS (AAH) PROGRAM	EMIC Program	Special Projects Total 3/	Section 516 4/	Research Grants	Training Grants	SPRANS Grants 2/	CISS Grants 2/
1980	376 343 000	224 571 500	102 100 000			18 628 470	4 800 000	25 043 000		
1981	387 400 000	235 095 118	105 700 000			16 404 882	5 000 000	25 200 000		
1982	373 750 000	316 200 000							57 550 000	
1983	478 000 000 7/	422 050 000 7/							55 950 000	
1984	399 000 000	339 150 000							59 850 000	
1985	478 000 000	406 300 000							71 700 000	
1986	457 446 000 8/	388 829 100 8/							68 616 900 8/	
1987	496 750 000 9/	421 121 875 9/							75 628 125 9/	
1988	526 570 000	444 281 740							82 288 260 10/	
1989	554 268 000	465 293 300							88 974 700 10/	
1990	553 627 000	470 582 950							83 044 050	
1991	587 402 365 11/	499 207 010 11/							88 195 355 11/	
1992	649 570 000 12/	547 081 250							96 113 750 12/	6 375 000
1993	664 534 000	557 938 640							98 366 710	8 228 650
1994	687 034 000	574 546 590							101 390 575	11 096 835
1995	683 950 000	572 259 419							100 986 956	10 703 625

1/ Totals of amounts shown each year on the table are for MCH Program, CCS Program, The Emergency Maternal and Infant Care Program, Special Projects, Section 516, Research and Training or MCH BLOCK allocations for States, Special Projects of Regional and National Significance (SPRANS Grants) and Community Integrated Services Systems Grants (CISS).

2/ Beginning in 1982 only two categories of monies are shown, i.e., the 85 percent of the MCH Block Grant of the Omnibus Reconciliation Act of 1981 allocated to state programs and the 15 percent allocated to SPRANS Grants. A third category of grants (12.75 percent over $600 million) for Community Integrated Service Systems was authorized by the Omnibus Budget Reconciliation Act of 1989 and was first funded in FY 1992.

3/ These are monies appropriated for M&I, C&Y, Family Planning (FP), Dental and Intensive Infant Care Projects (later the Program of Projects), except that appropriations for Family Planning Projects in 1971 and 1972 (transferred to the National Center for Family Planning Services) are not included. FP monies for 1969, 1970, 1973 and 1974 are included.

4/ The Section 516 monies were appropriated to maintain the FY 1973 level of Title V funding for the MCH and CCS programs and Special (Program of) Projects in each State. Monies shown for 1974 were allocated to enable States to plan the takeover of existing Special Projects.

5/ The $10,472,000 shown for Special Projects in 1975 are monies impounded by President Nixon in 1973 and released by court order in 1975.

6/ These monies are those used to fund the "transition" quarter in 1976 (July-September) when the Federal Fiscal Year changed from July-June to October-September.

7/ The total for 1983 and the MCH Block Grant amount include $105 million from the "Jobs Bill" designated as being for the care of mothers and children.

8/ The total for 1986 included a sequester of $20,554,000 of which $17,470,900 came from State allocations and $3,083,100 came from SPRANS.

9/ The total for 1987 reflects a supplemental appropriation of $18,750,000: $1,312,500 for the newborn sickle cell screening setaside, $14,821,875 for State allocations, and $2,615,625 for SPRANS.

10/ Includes funding for the newborn sickle cell screening setaside of 8 percent in FY 1988 ($3,885,600) and 9 percent in FY 1989 ($6,864,120) of the amount over $478,000,000.

11/ The total for FY 1991 includes a sequester of .00138 totaling $7,635: State allocations -$6,490 and SPRANS -$1,145.

12/ The total reflects reductions in SPRANS for salaries and expenses reduction of $350,000 included in the Appropriations Act (P.L. 102-170) and a rescission of $80,000.

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P.L. 104-193—PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY ACT OF 1996

TITLE II, SUBTITLE B—BENEFITS FOR DISABLED CHILDREN

SEC. 211. DEFINITION AND ELIGIBILITY RULES.

(a) DEFINITION OF CHILDHOOD DISABILITY.—Section 1614(a)(3) (42 U.S.C. 1382c(a)(3)), as amended by section 105(b)(1) of the Contract with America Advancement Act of 1996, is amended—

(1) in subparagraph (A), by striking "An individual" and inserting "Except as provided in subparagraph (C), an individual";

(2) in subparagraph (A), by striking "(or, in the case of an individual under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)";

(3) by redesignating subparagraphs (C) through (I) as subparagraphs (D) through (J), respectively;

(4) by inserting after subparagraph (B) the following new subparagraph:

"(C)(i) An individual under the age of 18 shall be considered disabled for the purposes of this title if that individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

"(ii) Notwithstanding clause (i), no individual under the age of 18 who engages in substantial gainful activity (determined in accordance with regulations prescribed pursuant to subparagraph (E)) may be considered to be disabled."; and

(5) in subparagraph (F), as redesignated by paragraph (3), by striking "(D)" and inserting "(E)".

(b) CHANGES TO CHILDHOOD SSI REGULATIONS.—

(1) MODIFICATION TO MEDICAL CRITERIA FOR EVALUATION OF MENTAL AND EMOTIONAL DISORDERS.—The Commissioner of Social Security shall modify sections 112.00C.2. and 112.02B.2.c.(2) of appendix 1 to subpart P of part 404 of title 20, Code of Federal Regulations, to eliminate references to maladaptive behavior in the domain of personal/behavioral function.

(2) DISCONTINUANCE OF INDIVIDUALIZED FUNCTIONAL ASSESSMENT.—The Commissioner of Social Security shall discontinue the individualized functional assessment for children set forth in sections 416.924d and 416.924e of title 20, Code of Federal Regulations.

(c) MEDICAL IMPROVEMENT REVIEW STANDARD AS IT APPLIES TO INDIVIDUALS UNDER THE AGE OF 18.—Section 1614(a)(4) (42 U.S.C. 1382(a)(4)) is amended—

(1) by redesignating subclauses (I) and (II) of clauses (i) and (ii) of subparagraph (B) as items (aa) and (bb), respectively;

(2) by redesignating clauses (i) and (ii) of subparagraphs (A) and (B) as subclauses (I) and (II), respectively;

(3) by redesignating subparagraphs (A) through (C) as clauses (i) through (iii), respectively;

(4) by inserting before clause (i) (as redesignated by paragraph (3)) the following new subparagraph:

"(A) in the case of an individual who is age 18 or older—";

(5) by inserting after and below subparagraph (A)(iii) (as so redesignated) the following new subparagraph:

"(B) in the case of an individual who is under the age of 18—

"(i) substantial evidence which demonstrates that there has been medical improvement in the individual's impairment or combination of impairments, and that such impairment or combination of impairments no longer results in marked and severe functional limitations; or

"(ii) substantial evidence which demonstrates that, as determined on the basis of new or improved diagnostic techniques or evaluations, the individual's impairment or combination of impairments, is not as disabling as it was considered to be at the time of the most recent prior decision that the individual was under a disability or continued to be under a disability, and such impairment or combination of impairments does not result in marked and severe functional limitations; or";

(6) by redesignating subparagraph (D) as subparagraph (C) and by inserting in such subparagraph "in the case of any individual," before "substantial evidence"; and

(7) in the first sentence following subparagraph (C) (as redesignated by paragraph (6)), by—

(A) inserting "(i)" before "to restore"; and

(B) inserting ", or (ii) in the case of an individual under the age of 18, to eliminate or improve the individual's impairment or combination of impairments so that it no longer results in marked and severe functional limitations" immediately before the period.

(d) EFFECTIVE DATES, ETC.—

(1) EFFECTIVE DATES.—

(A) SUBSECTIONS (a) AND (b).—

(i) IN GENERAL.—The provisions of, and amendments made by, subsections (a) and (b) of this section shall apply to any individual who applies for, or whose claim is finally adjudicated with respect to, benefits under title XVI of the Social Security Act on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such provisions and amendments.

(ii) DETERMINATION OF FINAL ADJUDICATION.—For purposes of clause (i), no individual's claim with respect to such benefits may be considered to be finally adjudicated before such date of enactment if, on or after such date, there is pending a request for either administrative or judicial review with respect to such claim that has been denied in whole, or there is pending, with respect to such claim, readjudication by the Commissioner of Social Security pursuant to relief in a class action or implementation by the Commissioner of a court remand order.

(B) SUBSECTION (c).—The amendments made by subsection (c) of this section shall apply with respect to benefits under title XVI of the Social Security Act for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

(2) APPLICATION TO CURRENT RECIPIENTS.—

(A) ELIGIBILITY REDETERMINATIONS.—During the period beginning on the date of the enactment of this Act and ending on the date which is 1 year after such date of enactment, the Commissioner of Social Security shall redetermine the eligibility of any individual under age 18 who is eligible for supplemental security income benefits by reason of disability under title XVI of the Social Security Act as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the provisions of, or amendments made by, subsections (a) and (b) of this section. With respect to any redetermination under this subparagraph—

(i) section 1614(a)(4) of the Social Security Act (42 U.S.C. 1382c(a)(4)) shall not apply;

(ii) the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under title XVI of such Act;

(iii) the Commissioner shall give such redetermination priority over all continuing eligibility reviews and other reviews under such title; and

(iv) such redetermination shall be counted as a review or redetermination otherwise required to be made under section 208 of the Social Security Independence and Program Improvements Act of 1994 or any other provision of title XVI of the Social Security

Act.

(B) GRANDFATHER PROVISION.—The provisions of, and amendments made by, subsections (a) and (b) of this section, and the redetermination under subparagraph (A), shall only apply with respect to the benefits of an individual described in subparagraph (A) for months beginning on or after the later of July 1, 1997, or the date of the redetermination with respect to such individual.

(C) NOTICE.—Not later than January 1, 1997, the Commissioner of Social Security shall notify an individual described in subparagraph (A) of the provisions of this paragraph.

(3) REPORT.—The Commissioner of Social Security shall report to the Congress regarding the progress made in implementing the provisions of, and amendments made by, this section on child disability evaluations not later than 180 days after the date of the enactment of this Act.

(4) REGULATIONS.—Notwithstanding any other provision of law, the Commissioner of Social Security shall submit for review to the committees of jurisdiction in the Congress any final regulation pertaining to the eligibility of individuals under age 18 for benefits under title XVI of the Social Security Act at least 45 days before the effective date of such regulation. The submission under this paragraph shall include supporting documentation providing a cost analysis, workload impact, and projections as to how the regulation will effect the future number of recipients under such title.

(5) CAP ADJUSTMENT FOR SSI ADMINISTRATIVE WORK REQUIRED BY WELFARE REFORM.—

(A) AUTHORIZATION.—For the additional costs of continuing disability reviews and redeterminations under title XVI of the Social Security Act, there is hereby authorized to be appropriated to the Social Security Administration, in addition to amounts authorized under section 201(g)(1)(A) of the Social Security Act, $150,000,000 in fiscal year 1997 and $100,000,000 in fiscal year 1998.

(B) CAP ADJUSTMENT.—Section 251(b)(2)(H) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by section 103(b) of the Contract with America Advancement Act of 1996, is amended—

(i) in clause (i)—

(I) in subclause (II) by—

(aa) striking "$25,000,000" and inserting "$175,000,000"; and

(bb) striking "$160,000,000" and inserting "$310,000,000"; and

(II) in subclause (III) by—

(aa) striking "$145,000,000" and inserting

"$245,000,000"; and

(bb) striking "$370,000,000" and inserting "$470,000,000"; and

(ii) by amending clause (ii)(I) to read as follows:

"(I) the term 'continuing disability reviews' means reviews or redeterminations as defined under section 201(g)(1)(A) of the Social Security Act and reviews and redeterminations authorized under section 211 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996;".

(C) ADJUSTMENTS.—Section 606(e)(1)(B) of the Congressional Budget Act of 1974 is amended by adding at the end the following new sentences: "If the adjustments referred to in the preceding sentence are made for an appropriations measure that is not enacted into law, then the Chairman of the Committee on the Budget of the House of Representatives shall, as soon as practicable, reverse those adjustments. The Chairman of the Committee on the Budget of the House of Representatives shall submit any adjustments made under this subparagraph to the House of Representatives and have such adjustments published in the Congressional Record.".

(D) CONFORMING AMENDMENT.—Section 103(d)(1) of the Contract with America Advancement Act of 1996 (42 U.S.C. 401 note) is amended by striking "medicaid programs." and inserting "medicaid programs, except that the amounts appropriated pursuant to the authorization and discretionary spending allowance provisions in section 211(d)(2)(5) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall be used only for continuing disability reviews and redeterminations under title XVI of the Social Security Act.".

(6) BENEFITS UNDER TITLE XVI.—For purposes of this subsection, the term "benefits under title XVI of the Social Security Act" includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act, and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.

SEC. 212. ELIGIBILITY REDETERMINATIONS AND CONTINUING DISABILITY REVIEWS.

(a) CONTINUING DISABILITY REVIEWS RELATING TO CERTAIN CHILDREN.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as redesignated by section 211(a)(3) of this Act, is amended—

(1) by inserting "(i)" after "(H)"; and

(2) by adding at the end the following new clause:

"(ii)(I) Not less frequently than once every 3 years, the

Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this title of each individual who has not attained 18 years of age and is eligible for such benefits by reason of an impairment (or combination of impairments) which is likely to improve (or, at the option of the Commissioner, which is unlikely to improve).

"(II) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

"(III) If the representative payee refuses to comply without good cause with the requirements of subclause (II), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly suspend payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.

"(IV) Subclause (II) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combination of impairments). Section 1631(c) shall not apply to a finding by the Commissioner that the requirements of subclause (II) should not apply to an individual's representative payee.".

(b) DISABILITY ELIGIBILITY REDETERMINATIONS REQUIRED FOR SSI RECIPIENTS WHO ATTAIN 18 YEARS OF AGE.—

(1) IN GENERAL.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsection (a) of this section, is amended by adding at the end the following new clause:

"(iii) If an individual is eligible for benefits under this title by reason of disability for the month preceding the month in which the individual attains the age of 18 years, the Commissioner shall redetermine such eligibility—

"(I) during the 1-year period beginning on the individual's 18th birthday; and

"(II) by applying the criteria used in determining the initial eligibility for applicants who are age 18 or older.

With respect to a redetermination under this clause, paragraph (4) shall not apply and such redetermination shall be considered a substitute for a review or redetermination otherwise required under any other provision of this subparagraph during that 1-year period.".

(2) CONFORMING REPEAL.—Section 207 of the Social Security Independence and Program Improvements Act of 1994 (42 U.S.C. 1382 note; 108 Stat. 1516) is hereby repealed.

(c) CONTINUING DISABILITY REVIEW REQUIRED FOR LOW BIRTH WEIGHT BABIES.—Section 1614(a)(3)(H) (42 U.S.C. 1382c(a)(3)(H)), as amended by subsections (a) and (b) of this section, is amended by adding at the end the following new clause:

"(iv)(I) Not later than 12 months after the birth of an individual, the Commissioner shall review in accordance with paragraph (4) the continuing eligibility for benefits under this title by reason of disability of such individual whose low birth weight is a contributing factor material to the Commissioner's determination that the individual is disabled.

"(II) A review under subclause (I) shall be considered a substitute for a review otherwise required under any other provision of this subparagraph during that 12-month period.

"(III) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this title.

"(IV) If the representative payee refuses to comply without good cause with the requirements of subclause (III), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly suspend payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this title would be served thereby, to the individual.

"(V) Subclause (III) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combination of impairments). Section 1631(c) shall not apply to a finding by the Commissioner that the requirements of subclause (III) should not apply to an individual's representative payee.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

SEC. 213. ADDITIONAL ACCOUNTABILITY REQUIREMENTS.

(a) REQUIREMENT TO ESTABLISH ACCOUNT.—Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended—

(1) by redesignating subparagraphs (F) and (G) as

subparagraphs (G) and (H), respectively; and

(2) by inserting after subparagraph (E) the following new subparagraph:

"(F)(i)(I) Each representative payee of an eligible individual under the age of 18 who is eligible for the payment of benefits described in subclause (II) shall establish on behalf of such individual an account in a financial institution into which such benefits shall be paid, and shall thereafter maintain such account for use in accordance with clause (ii).

"(II) Benefits described in this subclause are past-due monthly benefits under this title (which, for purposes of this subclause, include State supplementary payments made by the Commissioner pursuant to an agreement under section 1616 or section 212(b) of Public Law 93-66) in an amount (after any withholding by the Commissioner for reimbursement to a State for interim assistance under subsection (g)) that exceeds the product of—

"(aa) 6, and

"(bb) the maximum monthly benefit payable under this title to an eligible individual.

"(ii)(I) A representative payee shall use funds in the account established under clause (i) to pay for allowable expenses described in subclause (II).

"(II) An allowable expense described in this subclause is an expense for—

"(aa) education or job skills training;

"(bb) personal needs assistance;

"(cc) special equipment;

"(dd) housing modification;

"(ee) medical treatment;

"(ff) therapy or rehabilitation; or

"(gg) any other item or service that the Commissioner determines to be appropriate; provided that such expense benefits such individual and, in the case of an expense described in item (bb), (cc), (dd), (ff), or (gg), is related to the impairment (or combination of impairments) of such individual.

"(III) The use of funds from an account established under clause (i) in any manner not authorized by this clause—

"(aa) by a representative payee shall be considered a misapplication of benefits for all purposes of this paragraph, and any representative payee who knowingly misapplies benefits from such an account shall be liable to the Commissioner in an amount equal to the total amount of such benefits; and

"(bb) by an eligible individual who is his or her own payee shall be considered a misapplication of benefits for all purposes of this paragraph and the total amount of such benefits so used shall be considered to be the uncompensated value of a disposed resource and shall be subject to the provisions of section 1613(c).

"(IV) This clause shall continue to apply to funds in the account after the child has reached age 18, regardless of whether benefits are paid directly to the beneficiary or through a representative payee.

"(iii) The representative payee may deposit into the account established pursuant to clause (i)—

"(I) past-due benefits payable to the eligible individual in an amount less than that specified in clause (i)(II), and

"(II) any other funds representing an underpayment under this title to such individual, provided that the amount of such underpayment is equal to or exceeds the maximum monthly benefit payable under this title to an eligible individual.

"(iv) The Commissioner of Social Security shall establish a system for accountability monitoring whereby such representative payee shall report, at such time and in such manner as the Commissioner shall require, on activity respecting funds in the account established pursuant to clause (i).".

(b) EXCLUSION FROM RESOURCES.—Section 1613(a) (42 U.S.C. 1382b(a)) is amended—

(1) by striking "and" at the end of paragraph (10);

(2) by striking the period at the end of paragraph (11) and inserting "; and"; and

(3) by inserting after paragraph (11) the following new paragraph:

"(12) any account, including accrued interest or other earnings thereon, established and maintained in accordance with section 1631(a)(2)(F).".

(c) EXCLUSION FROM INCOME.—Section 1612(b) (42 U.S.C. 1382a(b)) is amended—

(1) by striking "and" at the end of paragraph (19);

(2) by striking the period at the end of paragraph (20) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(21) the interest or other earnings on any account established and maintained in accordance with section 1631(a)(2)(F).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments made after the date of the enactment of this Act.

SEC. 214. REDUCTION IN CASH BENEFITS PAYABLE TO INSTITUTIONALIZED INDIVIDUALS WHOSE MEDICAL COSTS ARE COVERED BY PRIVATE INSURANCE.

(a) IN GENERAL.—Section 1611(e)(1)(B) (42 U.S.C. 1382(e)(1)(B)) is amended by inserting "or, in the case of an eligible individual who is a child under the age of 18, receiving payments (with respect to such individual) under any health insurance policy issued by a private provider of such insurance" after "section 1614(f)(2)(B),".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to benefits for months beginning 90 or more days after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

TITLE IX—MISCELLANEOUS

SEC. 912. ABSTINENCE EDUCATION.

Title V of the Social Security Act (42 U.S.C. 701 et seq.) is amended by adding at the end the following section:

"SEPARATE PROGRAM FOR ABSTINENCE EDUCATION

"SEC. 510. (a) For the purpose described in subsection (b), the Secretary shall, for fiscal year 1998 and each subsequent fiscal year, allot to each State which has transmitted an application for the fiscal year under section 505(a) an amount equal to the product of—

"(1) the amount appropriated in subsection (d) for the fiscal year; and

"(2) the percentage determined for the State under section 502(c)(1)(B)(ii).

"(b)(1) The purpose of an allotment under subsection (a) to a State is to enable the State to provide abstinence education, and at the option of the State, where appropriate, mentoring, counseling, and adult supervision to promote abstinence from sexual activity, with a focus on those groups which are most likely to bear children out-of-wedlock.

"(2) For purposes of this section, the term "abstinence education" means an educational or motivational program which—

"(A) has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity;

"(B) teaches abstinence from sexual activity outside marriage as the expected standard for all school age children;

"(C) teaches that abstinence from sexual activity is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems;

"(D) teaches that a mutually faithful monogamous relationship in context of marriage is the expected standard of human sexual activity;

"(E) teaches that sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects;

"(F) teaches that bearing children out-of-wedlock is likely to have harmful consequences for the child, the child's parents, and society;

"(G) teaches young people how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances; and

"(H) teaches the importance of attaining self-sufficiency before engaging in sexual activity.

"(c)(1) Sections 503, 507, and 508 apply to allotments under subsection (a) to the same extent and in the same manner as such sections apply to allotments under section 502(c).

"(2) Sections 505 and 506 apply to allotments under subsection (a) to the extent determined by the Secretary to be appropriate.

"(d) For the purpose of allotments under subsection (a), there is appropriated, out of any money in the Treasury not otherwise appropriated, an additional $50,000,000 for each of the fiscal years 1998 through 2002. The appropriation under the preceding sentence for a fiscal year is made on October 1 of the fiscal year.".

P.L. 103-432—SOCIAL SECURITY ACT AMENDMENTS OF 1994

SEC. 201. INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR THE MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT PROGRAM

Section 501(a) (42 U.S.C. 701(a)) is amended by striking "686,000,000 for fiscal year 1990" and inserting "$705,000,000 for fiscal year 1994".

P.L. 101-508—OMNIBUS BUDGET RECONCILIATION ACT OF 1990

SEC. 4601. MEDICAID CHILD HEALTH PROVISIONS.

(a) PHASED-IN MANDATORY COVERAGE OF CHILDREN UP TO 100 PERCENT OF POVERTY LEVEL.—

(1) IN GENERAL.—Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10)(A)(i)—

(i) by striking "or" at the end of subclause (V),

(ii) by striking the semicolon at the end of subclause (VI) and inserting ", or", and

(iii) by adding at the end the following new subclause:

"(VII) who are described in subparagraph (D) of subsection (l)(1) and whose family income does not exceed the income level the State is required to establish under subsection (l)(2)(C) for such a family;";

(B) in subsection (a)(10)(A)(ii)(IX), by striking "or clause (i)(VI)" and inserting ", clause (i)(VI), or clause (i)(VII)";

(C) in subsection (l)—

(i) in subparagraph (C) of paragraph (1) by inserting "children" after "(C)";

(ii) by striking subparagraph (D) of paragraph (1) and inserting the following:

"(D) children born after September 30, 1983, who have attained 6 years of age but have not attained 19 years of age.";

(iii) by striking subparagraph (C) of paragraph (2) and inserting the following.

"(C) For purposes of paragraph (1) with respect to individuals described in subparagraph (D) of that paragraph, the State shall establish an income level which is equal to 100 percent of the income official poverty line described in subparagraph (A) applicable to a family of the size involved."

(iv) in paragraph (3) by inserting ", (a)(10)(A)(i)(VII)," after "(a)(10)(A)(i)(VI)";

(v) in paragraph (4)(A), by inserting "or subsection (a)(10)(A)(i)(VII)" after "(a)(10)(A)(i)(VI)"; and

(vi) in paragraph (4)(B), by striking "or (a)(10)(A)(i)(VI)" ", and inserting "(a)(10)(A)(i)(VI), or (a)(10)(A)(i)(VII)"; and

(D) in subsection (r)(2)(A), by inserting "(a)(10)(A)(i)(VII)," after "(a)(10)(A)(i)(VI),".

(2) CONFORMING AMENDMENT TO QUALIFIED CHILDREN.—Section 1905(n)(2) (42 U.S.C. 1396d(n)(2)) is amended by

striking "age of 7 (or any age designated by the State that exceeds 7 but does not exceed 8)" and inserting "age of 19".

(3) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended—

(i) by striking "1902(a)(10)(A)(i)(IV)," and inserting "1902(a)(10)(A)(i)(III), 1902(a)(10)(A)(i)(IV), 1902(a)(10)(A)(i)(V)," and

(ii) by inserting "1902(a)(10)(A)(i)(VII)," after "1902(a)(10)(A)(i)(VI),"

(B) Subsections (a)(3)(C) and (b)(3)(C)(i) of section 1925 of such Act (42 U.S.C. 1396r-6), as amended by section 6411(i)(3) of the Omnibus Budget Reconciliation Act of 1989, are each amended by inserting "(i)(VII)," after "(i)(VI)".

(b) EFFECTIVE DATE.—(1)The amendments made by this subsection apply (except as otherwise provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation authorizing or appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 4603. MANDATORY CONTINUATION OF BENEFITS THROUGHOUT PREGNANCY OR FIRST YEAR OF LIFE.

(a) IN GENERAL.—Section 1902(e) (42 U.S.C 1359a(e)) is amended—

(1) in the first sentence of paragraph (4), by inserting "(or would remain if pregnant)" after "remains"; and

(2) in paragraph (6)—

(A) by striking "At the option of a State, in" and inserting "In";

(B) by striking "the State plan may nonetheless treat the woman as being" and inserting "the woman shall be deemed to continue to be"; and

(C) by adding at the end the following new sentence: "The preceding sentence shall not apply in the case of a woman who has been provided ambulatory prenatal care pursuant to section 1920 during a presumptive eligibility period and is then, in accordance with such section, determined to be ineligible for medical assistance under the State plan.".

(b) EFFECTIVE DATE.—

(1) INFANTS.—The amendment made by subsection (a)(1) shall apply to individuals born on or after January 1, 1991, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date.

(2) PREGNANT WOMEN.—The amendments made by subsection (a)(2) shall apply with respect to determinations to terminate the eligibility of women, based on change of income, made on or after January 19 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 4605. PRESUMPTIVE ELIGIBILITY.

(a) EXTENSION OF PRESUMPTIVE ELIGIBILITY PERIOD.— Section 1920 (42 U.S.C. 1396r-1) is amended—

(1) in subsection (b)(1)(B)—

(A) by adding "or" at the end of clause (i),

(B) by striking clause (ii), and

(C) by amending clause (iii) to read as follows:

"(ii) in the case of a woman who does not file an application by the last day of the month following the month during which the provider makes the determination referred to in subparagraph (A), such last day; and"; and

(2) in subsections (c)(2)(B) and (c)(3), by striking "within 14 calendar days after the date on which" and inserting "by not later than the last day of the month following the month during which".][1]

(b) FLEXIBILITY IN APPLICATION.—Section 1920(c)(3) (42 U.S.C. 1396r-1(c)(3)) is amended by inserting before the period at the end the following: ", which application may be the application used for the receipt of medical assistance by individuals described in section 1902(l)(1)(A)".

(c) EFFECTIVE DATES.—

(1) The amendments made by subsection (a) apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) The amendment made by subsection (b) shall be effective as if included in the enactment of section 9407(b) of the Omnibus Budget Reconciliation Act of 1986.

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[1] So in original. Probably should be "which".".

P.L. 101-239—OMNIBUS RECONCILIATION ACT OF 1989

TITLE VI. SUBTITLE B—MEDICAID

SEC. 6401. MANDATORY COVERAGE OF CERTAIN LOW-INCOME PREGNANT WOMEN AND CHILDREN.

(a) IN GENERAL.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(10)(A)(i)—

(A) by striking "or" at the end of subclause (IV).

(B) by striking the semicolon at the end of subclause (V) and inserting ", or", and

(C) by adding at the end the following new subclause:

"(VI) who are described in subparagraph (C) of subsection (l)(1) and whose family income does not exceed the income level the State is required to establish under subsection (l)(2)(B) for such a family;":

(2) in subsection (a)(10)(A)(ii)(IX), by inserting "or clause (i)(VI)" after "clause (i)(IV)":

(3) in subsection (l)(1)

(A) by striking "and" at the end of subparagraph (B), and

(B) by striking subparagraph (C) and inserting the following:

"(C) children who have attained 1 year of age but have not attained 6 years of age, and

"(D) at the option of the State, children born after September 30, 1983, who have attained 6 years of age but have not attained 7 or 8 years of age (as selected by the State).":

(4) in subsection (l)(2)(A)—

(A) in clause (ii), by amending subclause (II) to read as follows:

"(II) April 1, 1990, 133 percent, or, if greater, the percentage provided under clause (iv).": and

(B) by adding at the end the following new clause:

"(iv) In the case of a State which, as of the date of the enactment of this clause, has established under clause (i), or has enacted legislation authorizing, or appropriating funds, to provide for, a percentage (of the income official poverty line) that is greater than 133 percent, the percentage provided under clause (ii) for medical assistance on or after April 1, 1990, shall not be less than—

"(I) the percentage specified by the State in an amendment to its State plan (whether approved or not) as of the date of the enactment of this clause, or

"(II) if no such percentage is specified as of the date of the enactment of this clause, the percentage established under the State's authorizing legislation or provided for under the State's appropriations.";

(5) in subparagraph (B) of subsection (l)(2)—

(A) by striking ", or, if less, the percentage established under subparagraph (A)", and

(B) by redesignating such subparagraph as subparagraph (C);

(6) in subsection (l)(2), by inserting after subparagraph (A) the following new subparagraph:

"(B) For purposes of paragraph (1) with respect to individuals described in subparagraph (C) of such paragraph, the State shall establish an income level which is equal to 133 percent of the income official poverty line described in subparagraph (A) applicable to a family of the size involved.";

(6) in subsection (l)(3)—

(A) by inserting ", (a)(10)(A)(i)(VI)," after "(a)(10)(A)(i)(IV)", and

(B) in subparagraph (C), by striking "or (C)" and inserting ",(C), of (D)";

(7) in subsection (l)(4)—

(A) in subparagraph (A), by inserting "and for children described in subsection (a)(10)(A)(i)(VI)" after "(a)(10)(A)(i)(IV)", and

(B) in subparagraph (B), by inserting "or (a)(10)(A)(i)(VI)" after "(a)(10)(A)(i)(IV)";

(8) in subsection (e)(7), by striking "or (C)" and inserting ", (C), or (D)"; and

(9) in subsection (r)(2)(A), by inserting "(a)(10)(A)(i)(VI)," after "(a)(10)(A)(i)(IV),".

(b) CONFORMING AMENDMENT.—Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended by inserting "1902(a)(10)(A)(i)(VI)," after "1902(a)(10)(A)(i)(IV),".

(c) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after April 1, 1990, with respect to eligibility for medical assistance on or after such date, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State

legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 6402. PAYMENT FOR OBSTETRICAL AND PEDIATRIC SERVICES.

(a) CODIFICATION OF ADEQUATE PAYMENT LEVEL PROVISIONS.—Section 1902(a)(30)(A) of the Social Security Act (42 U.S.C. 1396a(a)(30)(A)) is amended by inserting before the semicolon at the end the following: "and are sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area".

(b) ASSURING ADEQUATE PAYMENT LEVELS FOR OBSTETRICAL AND PEDIATRIC SERVICES.—Title XIX of such act, as amended by section 303 of the Family Support Act of 1988, is amended by redesignating section 1926 as section 1927 and by inserting after section 1925 the following new section:

"ASSURING ADEQUATE PAYMENT LEVELS FOR OBSTETRICAL AND PEDIATRIC SERVICES

"SEC. 1926. (a)(1) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(30)(A) with respect to obstetrical services (as defined in paragraph (4)(A)), as of July 1 of each year (beginning with 1990), unless, by not later than April 1 of such year, the State submits to the Secretary an amendment to the plan that specifies the payment rates to be used for such services under the plan in the succeeding period and includes in such submission such additional data as will assist the Secretary in evaluating the State's compliance with such requirement, including data relating to how rates established for payments to health maintenance organizations under section 1903(m) take into account such payment rates.

"(2) A State plan under this title shall not be considered to meet the requirement of section 1902(a)(30)(A) with respect to pediatric services (as defined in paragraph (4)(B)), as of July 1 of each year (beginning with 1990), unless, by not later than April 1 of such year, the State submits to the Secretary an amendment to the plan that specifies, by pediatric procedure, the payment rates to be used for such services under the plan in the succeeding period and includes in such submission such additional data as will assist the Secretary in evaluating the State's compliance with such requirement, including data relating to how rates established for payments to health maintenance organizations under section 1903(m) take into account such payment rates.

"(3) The Secretary, by not later than 90 days after the date of submission of a plan amendment under paragraph (1) or (2), shall—

"(A) review each such amendment for compliance with the requirement of section 1902(a)(30)(A), and

"(B) approve or disapprove each such amendment.

If the Secretary disapproves such an amendment, the State shall immediately submit a revised amendment which meets such requirement.

"(4) In this section:

"(A) The term 'obstetrical services' means services relating to pregnancy covered under the State plan provided by an obstetrician, obstetrician-gynecologist, family practitioner, certified nurse midwife, or certified family nurse practitioner and does not include inpatient or outpatient hospital services or other institutional services.

"(B) The term 'pediatric services' means services covered under the State plan provided by a pediatrician, family practitioner, or certified pediatric nurse practitioner to children under 18 years of age and does not include inpatient or outpatient hospital services or other institutional services.

"(b) For amendments submitted under subsection (a)(1) in 1992 and thereafter, the data submitted under such subsection must include, for the second previous year, at least the statewide average payment rates under the State plan for obstetrical services furnished by obstetricians, obstetrician-gynecologists, family practitioners, certified family nurse practitioners, and certified nurse midwives, by procedure. Such information shall be provided separately for providers located in each metropolitan statistical area (or similar area) in the State and in the remainder of the State.

"(c) For amendments submitted under subsection (a)(2) in 1992 and thereafter, the data submitted under such subsection must include, for the second previous year, at least the statewide average payment rates under the State plan for pediatric services furnished by pediatricians, family practitioners, and certified pediatric nurse practitioners by procedure. Such information shall be provided separately for providers located in each metropolitan statistical area (or similar area) in the State and in the remainder of the State.

"(d) Nothing in this title (including section 1902(a)(30)(A)) shall be construed as preventing a State from establishing payment levels for obstetrical or pediatric services that are higher for those services furnished in rural areas than those furnished in metropolitan statistical areas.".

(c) PAYMENT FOR CERTAIN SERVICES IN CERTAIN FEDERALLY FUNDED HEALTH CENTERS.—

(1) COVERAGE.—Section 1905(a)(2) of the Social Security Act (42 U.S.C. 1396d(a)(2)) is amended by striking "and" before "(B)" and by inserting before the semicolon at the end the following: ", and (C) ambulatory services offered by a health center receiving funds under section 329, 330, or 340 of the Public Health Service Act to a pregnant woman or individual under 18 years of age".

(2) PAYMENT AMOUNTS.—Section 1902(a)(13)(E) of such Act (42 U.S.C. 1396a(a)(13)(E)) is amended by inserting ", and for payment for services described in section 1905(a)(2)(C) under the plan," after "provided by a rural health clinic under the plan".

(d) EFFECTIVE DATE.—(1) The amendments made by subsections (a) and (b) (except as otherwise provided in such amendments) shall take effect on the date of the enactment of this Act.

(2)(A) The amendments made by subsection (c) apply (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsection (c), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 6403. EARLY AND PERIODIC SCREENING, DIAGNOSTIC, AND TREATMENT SERVICES DEFINED.

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(r) The term 'early and periodic screening, diagnostic and treatment services' means the following items and services:

"(1) Screening services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of medical and dental practice, as determined by the State after consultation with recognized medical and dental organizations involved in child health care, and

"(ii) at such other intervals, indicated as medically necessary, to determine the existence of certain physical or mental illnesses or conditions; and

"(B) which shall at a minimum include

"(i) a comprehensive health and developmental history (including assessment of both physical and mental health development),

"(ii) a comprehensive unclothed physical exam,

"(iii) appropriate immunizations according to age and health history,

"(iv) laboratory tests (including lead blood level assessment appropriate for age and risk factors), and

"(v) health education (including anticipatory guidance).

"(2) Vision services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care, and

"(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

"(B) which shall at a minimum include diagnosis and treatment for defects in vision, including eyeglasses.

"(3) Dental services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of dental practice, as determined by the State after consultation with recognized dental organizations involved in child health care, and

"(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

"(B) which shall at a minimum include relief of pain and infections, restoration of teeth, and maintenance of dental health.

"(4) Hearing services—

"(A) which are provided—

"(i) at intervals which meet reasonable standards of medical practice, as determined by the State after consultation with recognized medical organizations involved in child health care, and

"(ii) at such other intervals, indicated as medically necessary, to determine the existence of a suspected illness or condition; and

"(B) which shall at a minimum include diagnosis and treatment for defects in hearing, including hearing aids.

"(5) Such other necessary health care, diagnostic services, treatment and other measures described in section 1905(a) to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services whether or not such services are covered under the State plan.

Nothing in this title shall be construed as limiting providers of early and periodic screening, diagnostic, and treatment services to providers who are qualified to provide all of the items and services described in the previous sentence or as preventing a provider that is qualified under the plan to furnish one or more (but not all) of such items or services from being qualified to provide such items and services as part of early and periodic screening, diagnostic, and treatment services.".

(b) REPORT ON PROVISION OF EPSDT.—Section 1902(a)(43) of such Act (42 U.S.C. 1396a(a)(43)) is amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the semicolon at the end of subparagraph (C) and inserting ", and", and

(3) by adding at the end the following new subparagraph:

"(D) reporting to the Secretary (in a uniform form and manner established by the Secretary, by age group and by basis of eligibility for medical assistance, and by not later than April 1 after the end of each fiscal year, beginning with fecal year 1990) the following information relating to early and periodic screening, diagnostic, and treatment services provided under the plan during each fiscal year:

"(i) the number of children provided child health screening services,

"(ii) the number of children referred for corrective treatment (the need for which is disclosed by such child health screening services),

"(iii) the number of children receiving dental services, and

"(iv) the State's results in attaining the participation goals set for the State under section 1905(r):".

(c) ANNUAL PARTICIPATION GOALS.—Section 1905(r) of such Act, as added by subsection (a), is amended by adding at the end the following: "The Secretary shall, not later than July 1, 1990, and every 12 months thereafter, develop and set annual participation goals for each State for participation of individuals who are covered under the State plan under this title in early and periodic screenings diagnostic, and treatment services.".

(d) CONFORMING AMENDMENTS.—(1)Section 1902(a)(43)(A) of such Act (42 U.S.C. 1396a(a)(43)(A)) is amended by striking "and treatment services as described in section 1905(a)(4)(B)" and inserting "and treatment services as described in section 1905(r)".

(2) Section 1905(a)(4) of such Act (42 U.S.C. 1396d(a)(4)) is

amended by amending clause (B) to read as follows: "(B) early and periodic screening, diagnostic, and treatment services (as defined in subsection (r)) for individuals who are eligible under the plan and are under the age of 21; and".

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on April 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 6404. PAYMENT FOR FEDERALLY-QUALIFIED HEALTH CENTER SERVICES.

(a) COVERAGE.—Section 1905(a)(2) of the Social Security Act (42 U.S.C. 1396d(a)(2)) is amended—

(1) by striking "and" before "(B)",

(2) by striking "subsection (l)" and inserting "subsection (l)(1)", and

(3) by inserting before the semicolon at the end the following: ", and (C) Federally-qualified health center services (as defined in subsection (l)(2)) and any other ambulatory services offered by a Federally-qualified health center and which are otherwise included in the plan".

(b) TERMS DEFINED.—Section 1905(l) of such Act is amended—

(1) by redesignating clauses (1) and (2) as clauses (A) and (B),

(2) by inserting "(1)" after "(l)", and

(3) by adding at the end the following new paragraph:

"(2)(A) The term 'Federally-qualified health center services' means services of the type described in subparagraphs (A) through (C) of section 1861(aa)(1) when furnished to an individual as an outpatient of a Federally-qualified health center and, for this purpose, any reference to a rural health clinic or a physician described in section 1861(aa)(2)(B) is deemed a reference to a Federally-qualified health center or a physician at the center, respectively.

"(B) The term 'Federally-qualified health center' means a facility which—

"(i) is receiving a grant under section 329, 330, or 340 of the Public Health Service Act, or

"(ii) based on the recommendation of the Health Resources and Services Administration within the Public Health Service, is determined by the Secretary to meet the requirements for receiving such a grant.

In applying clause (ii), the Secretary may waive any requirement referred to in such clause for up to 2 years for good cause shown.".

(c) PAYMENT AMOUNTS.—Section 1902(a)(13)(E) of such Act (42 U.S.C. 1396a(a)(13)(E)) is amended by striking "section 1905(a)(2)(B) provided by a rural health clinic" and inserting "clause (B) or (C) of section 1905(a)(2)".

(d) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after April 1, 1990, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 6406. REQUIRED MEDICAID NOTICE AND COORDINATION WITH SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC).

(a) STATE PLAN REQUIREMENTS OF NOTICE: AND COORDINATION.— Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (11), by striking "and" before "(B)" and by inserting before the semicolon at the end the following ", and (C) provide for coordination of the operations under this title with the State's operations under the special supplemental food program for women, infants, and children under section 17 of the Child Nutrition Act of 1966";

(2) by striking "and" at the end of paragraph (51);

(3) by striking the period at the end of paragraph (52) and inserting "; and; and

(4) by inserting after paragraph (52) the following new paragraph:

"(53) provide—

"(A) for notifying in a timely manner all individuals in the State who are determined to be eligible for medical assistance and who are pregnant women, breastfeeding or postpartum women (as defined in section 17 of the Child Nutrition Act of 1966), or children below the age of 5, of the availability of benefits furnished by the special supplemental food program under such section, and

"(B) for referring any such individual to the State agency responsible for administering such program."

(b) EFFECTIVE DATE.—The amendments made by subsection (A) shall take effect on July 1, 1990, without regard to whether regulations to carry out such amendments have been promulgated by such date.

SEC. 6407. DEMONSTRATION PROJECTS TO STUDY THE EFFECT OF ALLOWING STATES TO EXTEND MEDICAID TO PREGNANT WOMEN AND CHILDREN NOT OTHERWISE QUALIFIED TO RECEIVE MEDICAID BENEFITS.

(a) IN GENERAL.—In order to allow States to develop and carry out innovative programs to extend health insurance coverage to pregnant women and children under age 20 who lack insurance and to encourage workers to obtain health insurance for themselves and their children, the Secretary of Health and Human Services (in this section referred to as the "Secretary') shall enter into agreements with several States submitting applications in accordance with subsection (b) for the purpose of conducting demonstration projects to study the effect on access to health care, private insurance coverage, and costs of health care when such States are allowed to extend benefits under title XIX of the Social Security Acts either directly, in the same manner, or otherwise as alternative assistance authorized in section 1925(b)(4)(D) of such Act, to pregnant women and children under

20 years of age who are not otherwise qualified to receive benefits under such section.

(b) PROJECT REQUIREMENTS.—(1) Each State applying to participate in the demonstration project under subsection (a) shall assure the Secretary that eligibility shall be limited to pregnant women and children who have not attained 20 years of age who are in families with income below 185 percent of the income official poverty line (referred to in subsection (c)(1)).

(2) The Secretary shall further provide in conducting demonstration projects under this section that, if one or more of such demonstration projects utilizes employer coverage as allowed under section 1926(b)(4)(D) of the Social Security Act, such project shall require an employer contribution.

(c) PREMIUMS.—In the case of pregnant women and children eligible to participate in such demonstration projects whose family income level is—

(1) below 100 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved, there shall be no premium charged; and

(2) between 100 and 185 percent of such income of official poverty line, there shall be a premium equal to—

(A) an amount based on a sliding scale relating to incomes or

(B) 3 percent of the family's average gross monthly earnings,

whichever is less.

(d) DURATION.—Each demonstration project under this section shall be conducted for a period not to exceed 3 years.

(e) WAIVER.—The Secretary where he deems appropriate may waive the statewideness requirement described in section 1902(a)(1) of the Social Security Act.

(f) LIMIT ON EXPENDITURES.—The Secretary in conducting the demonstration projects described in this section shall limit the amount of the Federal share of benefits paid and expenses incurred under title XIX of the Social Security Act to $10,000,000 in each of fiscal years 1990, 1991, and 1992.

(g) EVALUATION AND REPORT.—(1) For each demonstration project conducted under this section, the Secretary shall assure that an evaluation is conducted on the effect of the project with respect to—

(A) access to health care;

(B) private health care insurance coverage;

(C) costs with respect to health care; and

(D) developing feasible premium and costsharing policies.

(2) The Secretary shall submit to Congress an interim report containing a summary of the evaluations conducted under paragraph (1) not later than January 1, 1992, and a final report

containing such summary together with such further recommendations as the Secretary may determine appropriate not later than January 1.

TITLE VI, SUBTITLE C—MATERNAL AND CHILD HEALTH BLOCK GRANT PROGRAM

SEC. 6501. INCREASE IN AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 501 of the Social Security Act (42 U.S.C. 701) is amended—

(1) by amending subsection (a) to read as follows:

"(a) To improve the health of all mothers and children consistent with the applicable health status goals and national health objectives established by the Secretary under the Public Health Service Act for the year 2000, there are authorized to be appropriated $686,000,000 for fiscal year 1990 and each fiscal year thereafter—

"(1) for the purpose of enabling each State—

"(A) to provide and to assure mothers and children (in particular those with low income or with limited availability of health services) access to quality maternal and child health services;

"(B) to reduce infant mortality and the incidence of preventable diseases and handicapping conditions among children, to reduce the need for inpatient and long-term care services, to increase the number of children (especially preschool children) appropriately immunized against disease and the number of low income children receiving health assessments and follow-up diagnostic and treatment services, and otherwise to promote the health of mothers and infants by providing prenatal, delivery, and postpartum care for low income, at-risk pregnant women, and to promote the health of children by providing preventive and primary care services for low income children;

"(C) to provide rehabilitation services for blind and disabled individuals under the age of 16 receiving benefits under title XVI, to extent medical assistance for such services is not provided under title XIX; and

"(D) to provide and to promote family centered, community-based, coordinated care (including care coordination service, as defined in subsection (b)(3)) for children with special health care needs and to facilitate the development of community-based systems of services for such children and their families;

"(2) for the purposes of enabling the Secretary (through grants, contracts, or otherwise) to provide for special projects of regional and national significance, research, and training with respect to maternal and child health and children with special health care needs (including early intervention training and services development), for genetic disease testing, counseling, and information development and dissemination programs, for grants (including funding for comprehensive hemophilia diagnostic treatment centers) relating to hemophilia without regard to age, and for the screening of newborns for sickle cell anemia and other genetic disorders and follow-up services; and

"(3) subject to section 502(b) for the purpose of enabling the Secretary (through grants, contracts or otherwise) to provide for developing and expanding the following—

"(A) maternal and infant health home visiting programs in which case management services as defined in subparagraphs (A) and (B) of subsection (b)(4), health education services, and related social support services are provided in the home to pregnant women or families with an infant up to age 1 by an appropriate health professional or by a qualified nonprofessional acting under the supervision of a health care professional,

"(B) projects designed to increase the participation of obstetricians and pediatricians under the program under this title and under State plans approved under title XIX,

"(C) integrated maternal and child health service delivery systems (of the type described in section 1136 and using, once developed, the model application form developed under section 6506(a) of the Omnibus Budget Reconciliation Act of 1989),

"(D) maternal and child health centers which (i) provide prenatal, delivery, and postpartum care for pregnant women and preventive and primary care services for infants up to age 1, and (ii) operate under the direction of a not-for-profit hospital,

"(E) maternal and child health projects to serve rural populations, and

"(F) outpatient and community based services programs (including day care services) for children with special health care needs whose medical services are provided primarily through inpatient institutional care.", and

(2) by adding at the end of subsection (b) the following new paragraphs:

"(3) The term 'care coordination services" means services to promote the effective and efficient organization and utilization of resources to assure access to necessary comprehensive services for children with special health care needs and their families.

"(4) The term 'case management services' means—

"(A) with respect to pregnant women, services to assure access to quality prenatal, delivery, and postpartum care; and

"(B) with respect to infants up to age one, services to assure access to quality preventive and primary care services".

(b) CONFORMING AMENDMENT.—Section 505(2)(C)(ii) of such Act (42 U.S.C. 705(2)(C)(ii)) is amended by striking "paragraphs (1) through (3) of section 501(a)" and inserting "subparagraphs (A) through (D) of section 501(a)(1)".

SEC. 6502. ALLOTMENTS TO STATE AND FEDERAL SET-ASIDES.

(a) IN GENERAL.—Section 502 of the Social Security Act (42 U.S.C. 702) is amended—

(1) by amending the first sentence of paragraph (1) of subsection (a) to read as follows: "Of the amounts appropriated under section 501(a) for a fiscal year that are not in excess of $600,000,000, the Secretary shall retain an amount equal to 15 percent for the purpose of carrying out activities described in section 501(a)(2).";

(2) in subsection (a)(3), by inserting "or subsection (b)" after "this subsection";

(3) by striking subsection (c), by redesignating subsection (b) as subsection (c), and by inserting after subsection (a) the following new subsection:

"(b)(1)(A) Of the amounts appropriated under section 501(a) for a fiscal year in excess of $600,000,000 the Secretary shall retain an amount equal to 12 3/4 percent thereof for the projects described in subparagraphs (A) through (F) of section 501(a)(3).

"(B) Any amount appropriated under section 501(a) for a fiscal year in excess of $600,000,000 that remains after the Secretary has retained the applicable amount (if any) under subparagraph (A) shall be retained by the Secretary in accordance with subsection (a) and allocated to the States in accordance with subsection (c).

"(2)(A) Of the amounts retained for the purpose of carrying out activities described in section 501(a)(3)(A), (B), (C), (D) and (E), the Secretary shall provide preference to qualified applicants which demonstrate that the activities to be carried out with such amounts shall be in areas with a high infant mortality rate (relative to the average infant mortality rate in the United States or in the State in which the area is located).

"(B) In carrying out activities described in section 501(a)(3)(D), the Secretary shall not provide for developing or expanding a maternal and child health center unless the Secretary has received satisfactory assurances that there will be applied, towards the costs of such development or expansion, non-Federal funds in an amount at least equal to the amount of funds provided under this title toward such development or expansion."; and

(4) in subsection (c), as redesignated by paragraph (2)—

(A) by striking "$478,000,000" and inserting "$600,000,000", and

(B) by amending paragraph (2) to read as follows:

"(2) Each such State shall be allotted for each fiscal year an amount equal to the sum of—

"(A) the amount of the allotment to the State under this subsection in fiscal year 1983, and

"(B) the State's proportion (determined under paragraph (1)(B)(ii)) of the amount by which the allotment available under this subsection for all the States for that fiscal year exceeds the amount that was available under this subsection for allotment for all the States for fiscal year 1983.".

(b) CONFORMING AMENDMENTS.—Sections 503(a) and 508(b) of such Act (42 U.S.C. 703(a), 708(b)) are amended by striking "502(b)" each place it appears and inserting "502(c)".

SEC. 6503. USE OF ALLOTMENT FUNDS AND APPLICATION FOR BLOCK GRANT FUNDS.

(a) EXPANDING USE OF FUNDS AND LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE COSTS.—Section 504 of the Social Security Act (42 U.S.C. 704) is amended—

(1) in subsection (a), by inserting "and including payment of salaries and other related expenses of National Health Service Corps personnel" after "education, and evaluation", and

(2) by adding at the end the following new subsection:

"(d) Of the amounts paid to a State under section 503 from an allotment for a fiscal year under section 502(c), not more than 10 percent may be used for administering the funds paid under such section.".

(b) APPLICATION.—Section 505 of such Act (42 U.S.C. 705) is amended—

(1) by amending the heading to read as follows:

"APPLICATION FOR BLOCK GRANT FUNDS";

(2) by inserting "(a)" after "Sec. 505.";

(3) in the matter before paragraph (1), by inserting "an application (in a standardized form specified by the Secretary) that" after "must prepare and transmit to the Secretary";

(4) by striking paragraph (1) and redesignating paragraph (2) as paragraph (5) and by inserting before paragraph (5), as redesignated, the following new paragraphs;

"(1) contains a statewide needs assessment (to be conducted every 5 years) that shall identify (consistent with the health status goals and national health objectives referred to in section 501(a)) the need for—

"(A) preventive and primary care services for pregnant women, mothers, and infants up to age one;

"(B) preventive and primary care services for children; and

"(C) services for children with special health care needs (as specified in section 501(a)(1)(D));

"(2) includes for each fiscal year—

"(A) a plan for meeting the needs identified by the statewide needs assessment under paragraph (1); and

"(B) a description of how the funds allotted to the State under section 502(c) will be used for the provision and coordination of services to carry out such plan that shall include

"(i) subject to paragraph (3), a statement of the goals and objectives consistent with the health status goals and national health objectives referred to in section 501(a) for meeting the needs specified in the State plan described in subparagraph (A);

"(ii) an identification of the areas and localities in the State in which services are to be provided and coordinated;

"(iii) an identification of the types of services to be provided and the categories or characteristics of individuals to be served; and

"(iv) information the State will collect in order to prepare reports required under section 506(a);

"(3) except as provided under subsection (b), provides that the State will use—

"(A) at least 30 percent of such payment amounts for preventive and primary care services for children, and

"(B) at least 30 percent of such payment amounts for services for children with special health care needs (as specified in section 501(a)(1)(D));

"(4) provides that a State receiving funds for maternal and child health services under this title shall maintain the level of funds being provided solely by such State for maternal and child health programs at a level at least equal to the level that such State provided for such programs in fiscal year 1989; and"; and

(5) in paragraph (5), as redesignated by paragraph (4) of this subsection—

(A) by striking "a statement of assurances that represents to the Secretary" and inserting "provides"

(B) in subparagraph (A), by striking "will provide" and inserting "will establish";

(C) by amending subparagraph (C)(i) to read as follows:

"(i) special consideration (where appropriate) for the continuation of the funding of special projects in the State previously funded under this title (as in effect before August 31, 1981), and";

(D) in subparagraph (D), by striking "and" at the end;

(E) by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

"(E) the State agency (or agencies) administering the State s program under this title will provide for a toll-free telephone number (and other appropriate methods) for the use of parents to access information about health care providers and practitioners who provide health care services under this title and title XIX and about other relevant health and health-related providers and practitioners; and"; and

(F) in subparagraph (F) (as redesignated by subparagraph (E))

(i) by striking "participate" before clause (i),

(ii) in clause (i), by striking "diagnosis" and inserting "diagnostic",

(iii) in clause (i), by striking "title XIX" and inserting "section 1905(a)(4)(B) (including the establishment of periodicity and content standards for early and periodic screening, diagnostic, and treatment services)",

(iv) by inserting "participate" after "(i)", after "(ii)", and after "(iii)",

(v) by striking "and" at the end of clause (ii),

(vi) by striking the period at the end of clause (iii) and inserting ", and", and

(vii) by inserting after clause (iii) the following new clause:

"(iv) provide, directly and through their providers and institutional contractors, for services to identify pregnant women and infants who are eligible for medical assistance under subparagraph (A) or (B) of section 1902(l)(1) and, once identified, to assist them in applying for such assistance.";

(6) by striking the last 2 sentences and inserting the following: "The application shall be developed by, or in consultation with, the State maternal and child health agency and shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during its development and after its transmittal."; and

(7) by adding at the end the following new subsection:

"(b) The Secretary may waive the requirement under subsection (a)(3) that a State's application for a fiscal year provide for the use of funds for specific activities if for that fiscal year—

"(1) the Secretary determines—

"(A) on the basis of information provided in the State's most recent annual report submitted under section 506(a)(1), that the State has demonstrated an extraordinary unmet need for one of the activities described in subsection (a)(3), and

"(B) that the granting of the waiver is justified and will assist in carrying out the purposes of this title; and

"(2) the State provides assurances to the Secretary that the State will provide for the use of some amounts paid to it under section 503 for the activities described in subparagraphs (A) and (B) of subsection (a)(3) and specifies the percentages to be substituted in each of such subparagraphs.".

(c) CONFORMING AMENDMENTS.—(1) Section 502(c) of such Act (42 U.S.C. 702(c)), as redesignated by section 6502(a)(3) of this subtitle, is amended by striking "a description of intended activities and statement of assurances" and inserting "an application".

(2) Section 504(a) of such Act (42 U.S.C. 704(a)) is amended by striking "its description of intended expenditures and statement of assurances" and insert "its application".

(3) Section 506(a)(1)(C) of such Act (42 U.S.C. 706(a)(1)(C)) is amended by striking "description and statement" and inserting "application".

(4) Sections 502(b), 502(d)(1), 503(c), 504(a), 506(a)(1)(C), and 509(a)(6) of such Act (42 U.S.C. 702(b), 702(d)(1), 703(c), 704(a), 706(a)(1)(C), 709(a)(6)) are each amended by striking "505" each place it appears and inserting "505(a)".

SEC. 6504. REPORTS.

(a) STATE REPORTS.—Subsection (a) of section 506 of the Social Security Act (42 U.S.C. 706) is amended—

(1) in paragraph (1)—

(A) by inserting after the first sentence the following: "Each such report shall be prepared by, or in consultation with, the State maternal and child health agency.",

(B) by striking "be in such form and contain such information" and inserting "be in such standardized form and contain such information (including information described in paragraph (2))" and

(C) by striking "and of the progress made toward achieving the purposes of this title, and (C)" and inserting ", (C) to describe the extent to which the State has met the goals and objectives it set forth under section 505(a)(2)(B)(i) and the national health objectives referred to in section 501(a), and (D)";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) Each annual report under paragraph (1) shall include the following information:

"(A)(i) the number of individuals served by the State under this title (by class of individuals).

"(ii) The proportion of each class of such individuals which has health coverage.

"(iii) The types (as defined by the Secretary) of services provided under this title to individuals within each such class.

"(iv) The amounts spent under this title on each type of services, by class of individuals served.

"(B) Information on the status of maternal and child health in the State, including—

"(i) information (by county and by racial and ethnic group) on—

"(I) the rate of infant mortality, and

"(II) the rate of low-birth-weight births;

"(ii) information (on a Statewide basis) on—

"(I) the rate of maternal mortality,

"(II) the rate of neonatal death,

"(III) the rate of perinatal death,

"(IV) the number of children with chronic illness and the type of illness,

"(V) the proportion of infants born with fetal alcohol syndrome,

"(VI) the proportion of infants born with drug dependency,

"(VII) the proportion of women who deliver who do not receive prenatal care during the first trimester of pregnancy and

"(VIII) the proportion of children, who at their second birthday, have been vaccinated against each of measles, mumps, rubella, polio, diphtheria, tetanus, pertussis, Hib meningitis, and hepatitis B; and

"(iii) information on such other indicators of maternal, infant, and child health care status as the Secretary may specify.

"(C) Information (by racial and ethnic group) on—

"(i) the number of deliveries in the State in the year, and

"(ii) the number of such deliveries to pregnant women who were provided prenatal, delivery, or postpartum care under this title or were entitled to benefits with respect to such deliveries under the State plan under title XIX in the year.

"(D) Information (by racial and ethnic group) on—

"(i) the number of infants under one year of age who were in the State in the year, and

"(ii) the number of such infants who were provided services under this title or were entitled to benefits under the State plan under title XIX at any time during the year.

"(E) Information on the number of—

"(i) obstetricians,

"(ii) family practitioners,

"(iii) certified family nurse practitioners,

"(iv) certified nurse midwives,

"(v) pediatricians, and

"(vi) certified pediatric nurse practitioners,

who were licensed in the State in the year.

For purposes of subparagraph (A), each of the following shall be considered to be a separate class of individuals: pregnant women, infants up to age one, children with special health care needs, other children under age 22, and other individuals.".

(b) SECRETARIAL REPORT.—Paragraph (3) of subsection (a) of such section, as redesignated by subsection (a)(2) of this section, is amended to read as follows:

"(3) The Secretary shall annually transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report that includes—

"(A) a description of each project receiving funding under paragraph (2) or (3) of section 502(a), including the amount of Federal funds provided, the number of individuals served or trained, as appropriate, under the project, and a summary of any formal evaluation conducted with respect to the project;

"(B) a summary of the information described in paragraph (2)(A) reported by States;

"(C) based on information described in paragraph (2)(B) supplied by the States under paragraph (1), a compilation of the following measures of maternal and child health in the United States and in each State:

"(i) Information on—

"(I) the rate of infant mortality, and

"(II) the rate of low-birth-weight births.

Information under this clause shall also be compiled by racial and ethnic group.

"(ii) Information on—

"(I) the rate of maternal mortality,

"(II) the rate of neonatal death,

"(III) the rate of perinatal death,

"(IV) the proportion of infants born with fetal alcohol syndrome,

"(V) the proportion of infants born with drug dependency,

"(VI) the proportion of women who deliver who do not receive prenatal care during the first trimester of pregnancy, and

"(VII) the proportion of children, who at their second birthday, have been vaccinated against each of measles, mumps, rubella, polio, diphtheria, tetanus, pertussis, Hib meningitis, and hepatitis B.

"(iii) Information on such other indicators of maternal, infant, and child health care status as the Secretary has specified under paragraph (2)(B)(iii).

"(iv) Information (by racial and ethnic group) on—

"(I) the number of deliveries in the State in the year, and

"(II) the number of such deliveries to pregnant women who were provided prenatal, delivery, or postpartum care under this title or were entitled to benefits with respect to such deliveries under the State plan under title XIX in the year;

"(D) based on information described in subparagraphs (C), (D), and (E) of paragraph (2) supplied by the States under paragraph (1), a compilation of the following information in the United States and in each State:

"(i) Information on—

"(I) the number of deliveries in the year, and

"(II) the number of such deliveries to pregnant women who were provided prenatal, delivery, or postpartum care under this title or were entitled to benefits with respect to such deliveries under a State plan under title XIX in the year.

Information under this clause shall also be compiled by racial and ethnic group.

"(ii) Information on—

"(I) the number of infants under one year of age in the year, and

"(II) the number of such infants who were provided services under this title or were entitled to benefits under a State plan under title XIX at any time during the year.

Information under this clause shall also be compiled by racial and ethnic group.

"(iii) Information on the number of—

"(I) obstetricians,

"(II) family practitioners,

"(III) certified family nurse practitioners,

"(IV) certified nurse midwives,

"(V) pediatricians, and

"(VI) certified pediatric nurse practitioners,

who were licensed in a State in the year; and

"(E) an assessment of the progress being made to meet the health status goals and national health objectives referred to in section 501(a).".

SEC. 6505. FEDERAL ADMINISTRATION AND ASSISTANCE.

Section 509(a) of the Social Security Act (42 U.S.C. 709(a)) is amended—

(1) in paragraph (4) by inserting before the semicolon at the end the following: "and in developing consistent and accurate data collection mechanisms in order to report the information required under section 506(a)(2)";

(2) in paragraph (5) by striking "and" at the end thereof;

(3) in paragraph (6) by striking the period and inserting "; and"; and

(4) by adding at the end thereof the following new paragraphs:

"(7) assisting States in the development of care coordination services (as defined in section 501(b)(3)); and

"(8) developing and making available to the State agency (or agencies) administering the State's program under this title a national directory listing by State the toll-free numbers described in section 505(a)(5)(E).".

SEC. 6506. DEVELOPMENT OF MODEL APPLICATIONS.

(a) FOR MATERNAL AND CHILD ASSISTANCE PROGRAMS.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall develop, by not later than one year after the date of the enactment of this Act and in consultation with the Secretary of Agriculture, a model application form for use in applying, simultaneously, for assistance for a pregnant woman or a child less than 6 years of age under maternal and child assistance programs (as defined in paragraph (3)). In developing such form, the Secretary is not authorized to change any requirement with respect to eligibility under any maternal and child assistance program.

(2) DISSEMINATION OF MODEL FORM.—The Secretary shall provide for publication in the Federal Register of the model application form developed under paragraph (1) and shall send a copy of such form to each State agency responsible for administering a maternal and child assistance program.

(3) MATERNAL AND CHILD ASSISTANCE PROGRAM DEFINED.—In this subsection, the term "maternal and child assistance program" means any of the following programs:

(A) The maternal and child health services block grant program under title V of the Social Security Act.

(B) The medicaid program under title XIX of the Social Security Act.

(C) The migrant and community health centers programs under sections 329 and 330 of the Public Health Service Act.

(D) The grant program for the homeless under section 340 of the Public Health Service Act.

(E) The "WIC" program under section 17 of the Child Nutrition Act of 1966.

(F) The head start program under the Head Start Act.

(b) FOR MEDICAID PROGRAM.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall, by not later than 1 year after the date of the enactment of this Act, develop a model application form for use in applying for benefits under title XIX of the Social Security Act for individuals who are not receiving cash

assistance under part A of title IV of the Social Security Act, and who are not institutionalized. In developing such model application form, the Secretary is not authorized to require that such form be adopted by States as part of their State medicaid plan.

(2) DISSEMINATION OF MODEL FORM.—The Secretary shall provide for publication in the Federal Register of the model application form developed under paragraph (1), and shall send a copy of such form to each State agency responsible for administering a State medicaid plan.

SEC. 6507. RESEARCH ON INFANT MORTALITY AND MEDICAID SERVICES.

The Secretary of Health and Human Services shall develop a national data system for linking, for any infant up to age one—

(1) the infant's birth record,

(2) any death record for the infant, and

(3) information on any claims submitted under title XIX of the Social Security Act for health care furnished to the infant or with respect to the birth of the infant.

SEC. 6508. DEMONSTRATION PROJECT ON HEALTH INSURANCE FOR MEDICALLY UNINSURABLE CHILDREN.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") may conduct not more than 4 demonstration projects to provide health insurance coverage (as defined by the Secretary) through an eligible plan (as defined in subsection (b)) to medically uninsurable children (as defined by the Secretary) under 19 years of age.

(b) ELIGIBILITY.—In this section, the term "eligible plan" means—

(1) a school-based plan;

(2) a plan operated under the direction of a not-for-profit entity offering health insurance; and

(3) a plan operated by a not-for-profit hospital.

(c) REQUIREMENTS.—A demonstration project conducted under subsection (a) may only be conducted under an agreement between the Secretary and an eligible plan which provides that—

(1) health insurance coverage will be made available under the project for at least 2 years and, if the eligible plan fails to provide such coverage during such period, the Secretary will guarantee the provision of such coverage;

(2) non-Federal funds will be made available to fund the project at a level not less than—

(A) 50 percent in the first year of such agreement,

(B) 65 percent in the second year of such agreement, and

(C) 80 percent in the third or subsequent year of such agreement;

(3) the plan may not—

(A) restrict health insurance coverage on the basis of a child's medical condition, or

(B) impose waiting periods or exclusions for preexisting conditions:

(4) any premium imposed under the project shall be disclosed in advance of enrollment and shall be varied by the income of individuals; and

(5) with respect to a plan which at the time of entering into such agreement is conducting a project similar to the one described in this subsection such plan must maintain its current level of non-Federal funding at its current level unless such level is less than the applicable level described in paragraph (2).

(d) APPLICATION.—No funds may be made available by the Secretary under this section unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain and be accompanied by such information, as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under this section.

(e) EVALUATION AND REPORT.—

(1) EVALUATION.—The Secretary shall provide for an evaluation of the effects of the demonstration projects conducted under subsection (a) on—

(A) access to health services by previously medically uninsurable children,

(B) the availability of insurance coverage to participating medically uninsurable children,

(C) the demographic characteristics and health status of participating medically uninsurable children and their families, and

(D) out-of-pocket health care costs for such families.

(2) REPORT.—The Secretary shall submit a report on the demonstration projects conducted under subsection (a) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate, and shall include in such report a summary of the evaluation described in paragraph (1).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000, for each of fiscal years 1991, 1992, and 1993.

SEC. 6509. MATERNAL AND CHILD HEALTH HANDBOOK.

(a) IN GENERAL.—

(1) DEVELOPMENT.—The Secretary of Health and Human Services shall develop a maternal and child health handbook in consultation with the National Commission to Prevent Infant Mortality and public and private organizations interested in the health and welfare of mothers and children.

(2) FIELD TESTING AND EVALUATION.—The secretary shall complete publication of the handbook for field testing by July 1, 1990, and shall complete field testing and evaluation by June 1,

(3) AVAILABILITY AND DISTRIBUTION.—The Secretary shall make the handbook available to pregnant women and families with young children, and shall provide copies of the handbook to maternal and child health programs (including maternal and child health clinics supported through either title V or title XIX of the Social Security Act, community and migrant health centers under sections 329 and 330 of the Public Health Service Act, the grant program for the homeless under section 340 of the Public Health Service Act, the "WIC" program under section 17 of the Child Nutrition Act of 1966, and the head start program under the Head Start Act) that serve high-risk women. The Secretary shall coordinate the distribution of the handbook with State maternal and child health departments, State and local public health clinics, private providers of obstetric and pediatric care, and community groups where applicable. The Secretary shall make efforts to involve private entities in the distribution of the handbook under this paragraph.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for each of fiscal years 1991, 1992, and 1993, for carrying out the purposes of this section.

SEC. 6510. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall apply to appropriations for fiscal years beginning with fiscal year 1990.

(b) APPLICATION AND REPORT.—The amendments made—

(1) by subsections (b) and (c) of section 6503 shall apply to payments for allotments for fiscal years beginning with fiscal year 1991, and

(2) by section 6504 shall apply to annual reports for fiscal years beginning with fiscal year 1991.

P.L. 100-360—MEDICARE CATASTROPHIC COVERAGE ACT OF 1988

SEC. 302. COVERAGE AND PAYMENT FOR PREGNANT WOMEN AND INFANTS WITH INCOMES BELOW POVERTY LINE.

(a) PREGNANT WOMEN AND INFANTS UNDER AGE 1.—

(1) REQUIRING COVERAGE.—Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended—

(A) in subparagraph (A)(i), by striking "or" at the end of subclause (II), by striking the semicolon in subclause (III) and inserting ", or", and by adding at the end the following new subclause:

"(IV) who are described in subparagraph (A) or (B) of subsection (l)(1) and whose family income does not exceed the minimum income level the State is required to establish under subsection (l)(2)(A) for such a family;";

(B) by amending subclause (IX) of subparagraph (A)(ii) to read as follows:

"(IX) who are described in subsection (l)(1) and are not described in clause (i)(IV);"; and

(C) in clause (VII) in the matter after and below subparagraph (E), by inserting "(A)(i)(IV) or" before "(A)(ii)(IX)".

(2) DESCRIPTION OF INDIVIDUALS REQUIRED TO BE COVERED.—Section 1902(l) (42 U.S.C. 1396a(l)) is amended—

(A) in paragraph (1)(C)—

(i) by inserting "at the option of the State," after "(C)", and

(ii) by striking "and" after "1983,"; and

(B) in paragraph (2)(A)—

(i) by striking "not more than 185 percent)" and inserting "(not less than the percentage provided under clause (ii) and not more than 185 percent)";

(ii) by inserting "(i)" after "(2)(A)"; and

(iii) by adding at the end the following new clause:

"(ii) Subject to clause (iii), the percentage provided under this clause, with respect to eligibility for medical assistance on or after—

"(I) July 1, 1989, is 75 percent, and

"(II) July 1, 1990, is 100 percent.

"(iii) In the case of a State which, as of the date of the enactment of this clause, has elected to provide, and provides, medical assistance to individuals described in this subsection or has enacted legislation authorizing, or appropriating funds, to provide such assistance to such individuals before July 1, 1989, the percentage provided under clause (ii) shall not be less than—

"(I) the percentage specified by the State in an amendment to its State plan (whether approved or not) as of the date of the enactment of this clause, or

"(II) if no such percentage is specified as of the date of the enactment of this clause, the percentage established under the State's authorizing legislation or provided for under the State's appropriations;

but in no case shall this clause require the percentage provided under clause (ii) to exceed 100 percent.".

(b) COVERAGE OF MEDICALLY NECESSARY SERVICES FOR INFANTS AND ASSURING ADEQUATE PAYMENT FOR INPATIENT HOSPITAL SERVICES FOR INFANTS IN DISPROPORTIONATE SHARE HOSPITALS.—

(1) COVERAGE OF MEDICALLY NECESSARY SERVICES FOR INFANTS.—Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended, in the matter after and below subparagraph (E)—

(A) by striking "and" before "(IX)", and

(B) by inserting before the semicolon at the end the following: ", and (X) if the plan provides for any fixed durational limit on medical assistance for inpatient hospital services (whether or not such a limit varies by medical condition or diagnosis), the plan must establish exceptions to such a limit for medically necessary inpatient hospital services furnished with respect to individuals under one year of age in a hospital defined under the State plan pursuant to section 1923(a)(1)(A), as a disproportionate share hospital and subparagraph (B) (relating to comparability) shall not be construed as requiring such an exception for other individuals, services, or hospitals".

(2) ASSURING ADEQUATE PAYMENT FOR INPATIENT HOSPITAL SERVICES FOR INFANTS IN DISPROPORTIONATE SHARE HOSPITALS.—Section 1923(a)(2), as redesignated pursuant to the amendment made by section 411(k)(6)(B) of this Act, is amended by adding at the end the following new subparagraph:

"(C) If a State plan under this title provides for payments for inpatient hospital services on a prospective basis (whether per diem, per case, or otherwise), in order for the plan to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1989, the State must submit to the Secretary by not later than April 1, 1989, a State plan amendment that provides, in the case of hospitals defined by the State as disproportionate share hospitals under paragraph (1)(A), for an outlier adjustment in payment amounts for medically necessary inpatient hospital services provided on or after July 1, 1989, involving exceptionally high costs or exceptionally long lengths of stay for individuals under one year of age.".

(c) CERTAIN STATE PLAN REQUIREMENTS.—

(1) IN GENERAL.—Subsection (c) of section 1902 (42 U.S.C. 1396a) is amended to read as follows:

"(c) Notwithstanding subsection (b), the Secretary shall not approve any State plan for medical assistance if—

"(1) the State has in effect, under its plan established under part A of title IV, payment levels that are less than the payment levels in effect under such plan on May 1, 1988; or

"(2) the State requires individuals described in subsection (l)(1) to apply for benefits under such part as a condition of applying for, or receiving, medical assistance under this title.".

(2) ELIMINATING DUPLICATE REQUIREMENT.—Section 1902(l) (42 U.S.C. 1396a(l)) is amended by striking paragraph (4).

(3) MAINTENANCE OF EFFORT TO RECEIVE MEDICAL ASSISTANCE FOR OPTIONAL COVERAGE OF PREGNANT WOMEN AND CHILDREN.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(A) by striking the period at the end of paragraph (8) and inserting "; or", and

(B) by inserting after paragraph (8) the following new paragraph:

"(9) with respect to any amount of medical assistance for pregnant women and children described in section 1902(a)(10)(A)(ii)(IX), if the State has in effect, under its plan established under part A of title IV, payment levels that are less than the payment levels in effect under such plan on July 1, 1987.".

(d) TREATMENT OF CERTAIN STATES AND TERRITORIES.—Section 1902(l)) (42 U.S.C. 1396a(l)) is amended by adding at the end the following new paragraph:

"(4)(A) In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to provide medical assistance for pregnant women and infants under age 1 described in subsection (a)(10)(A)(i)(IV) in the same manner as the State would be required to provide such assistance for such individuals if the State had in effect a plan approved under this title.

"(B) In the case of a State which is not one of the 50 States or the District of Columbia, the State need not meet the requirement of subsection (a)(10)(A)(i)(IV) and, for purposes of paragraph (2)(A), the State may substitute for the percentage provided under clause (ii) of such paragraph any percentage.".

(e) CONFORMING AMENDMENTS.—

(1) Section 1902(e)(6) (42 U.S.C. 1396a(e)(6)) is amended to

read as follows:

"(6) At the option of a State, in the case of a pregnant woman described in subsection (a)(10) who, because of a change in income of the family of which she is a member, would not otherwise continue to be described in such subsection, the State plan may nonetheless treat the woman as being an individual described in subsection (a)(10)(A)(i)(IV) and subsection (l)(1)(A) without regard to such change of income through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends.".

(2) Section 1902(e)(7) (42 U.S.C. 1396a(e)(7)) is amended—

(A) by striking "If a State plan provides medical assistance for individuals under subsection (a)(10)(A)(ii)(IX), in" and inserting "In",

(B) by inserting "or paragraph (2) of section 1905(n)" after "subsection (l)(1)" the first place it appears, and

(C) by striking "subsection (a)(10)(A)(ii)(IX) and subsection (l)(1)" and inserting "such respective provision".

(3) Section 1902(l) (42 U.S.C. 1396a(l)) is amended—

(A) in the matter after and below subparagraph (C) of paragraph (1), by inserting "any of subclauses (I) through (III) of" after "who are not described in", and

(B) in paragraph (3), in the matter before subparagraph (A), by inserting "(a)(10)(A)(i)(IV) or" before "(a)(10)(A)(ii)(IX)".

(4) Section 1903(f)(4) (42 U.S.C. 1396b(f)(4)) is amended, in the matter before subparagraph (A), by inserting "1902(a)(10)(A)(i)(IV)," before "1902(a)(10)(A)(ii)(IX)".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section apply (except as provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1989, with respect to eligibility for medical assistance on or after such date, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) PAYMENT ADJUSTMENT.—The amendments made by subsection (b)(2) shall take effect on the date of the enactment of this Act.

(3) DELAY FOR STATE LEGISLATION.—In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section (other than subsection (b)(2)), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first

regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a regular legislative session of 2 years, each year of such session shall be deemed to be a separate regular session of the State legislature.

P.L. 100-203—OMNIBUS BUDGET RECONCILIATION ACT OF 1987

SEC. 4101. MEDICAID BENEFITS FOR POOR CHILDREN AND PREGNANT WOMEN.

(a) MEDICAID OPTIONAL COVERAGE FOR ADDITIONAL LOW-INCOME PREGNANT WOMEN AND CHILDREN.—

(1) Section 1902(l) of the Social Security Act (42 U.S.C. 1396a(l)) is amended—

(A) in paragraph (2)—

(i) by striking "(2) For purposes of paragraph (1)" and inserting "(2)(A) For purposes of paragraph (1) with respect to individuals described in subparagraph (A) or (B) of that paragraph",

(ii) by striking "100 percent" and inserting "185 percent", and

(iii) by adding at the end the following new subparagraph:

"(B) If a State elects, under subsection (a)(10)(A)(ii)(IX), to cover individuals not described in subparagraph (A) or (B) of paragraph (1), for purposes of that paragraph and with respect to individuals not described in such subparagraphs the State shall establish an income level which is a percentage (not more than 100 percent, or, if less, the percentage established under subparagraph (A)) of the income official poverty line described in subparagraph (A)."; and

(B) in paragraph (3)(D), by inserting "appropriate" after "applied is the".

(2) Section 1902(e)(4) of such Act (42 U.S.C. 1396a(e)(4)) is amended by adding at the end the following new sentence: "During the period in which a child is deemed under the preceding sentence to be eligible for medical assistance, the medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).".

(3) The amendments made by this subsection shall apply to medical assistance furnished on or after July 1, 1988.

(b) ALLOWING ACCELERATED COVERAGE OF CHILDREN UP TO AGE 5.—

(1) Section 1902(l)(1) of such Act (42 U.S.C. 1396a(l)(1)) is amended—

(A) by inserting "and" at the end of subparagraph (B), and

(B) by striking subparagraphs (C) through (F) and inserting the following:

"(C) children born after September 30, 1983, and who have attained one year of age but have not attained 2, 3, 4, or 5 years of age (as selected by the State),".

(2)(A) Section 1902(l) of such Act is further amended—

(i) in paragraph (3)(C), by striking ", (C), (D), (E), or (F)" and inserting "or (C)", and

(ii) in paragraph (4)(B)(ii), by striking ", (D), (E), or (F)".

(B) Section 1902(e)(7) of such Act (42 U.S.C. 1396a(e)(7)) is amended by striking ", (C), (D), (E), or (F)" and inserting "or (C)".

(C) Section 9401(f)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "(A)" after "(2)" and by striking subparagraphs (B) through (D).

(3) The amendments made by this subsection shall apply with respect to medical assistance furnished on or after July 1, 1988.

(c) COVERAGE OF CHILDREN UP TO AGE 8.—

(1) Section 1905(n)(2) of such Act (42 U.S.C. 1396d(n)(2)) is amended by striking "is under 5 years of age" and inserting "has not attained the age of 7 (or any age designated by the State that exceeds 7 but does not exceed 8)".

(2) Section 1902(l)(1)(C) of such Act, as amended by subsection (b)(1)(B), is further amended by striking "or 5 years" and inserting "5, 6, 7, or 8 years".

(3)(A) The amendments made by this subsection shall apply to medical assistance furnished on or after October 1, 1988.

(B) For purposes of section 1905(n)(2) of the Social Security Act (as amended by subsection (a)) for medical assistance furnished during fiscal year 1989, any reference to "age of 7" is deemed to be a reference to "age of 6".

(d) PREMIUM.—

(1) Section 1916 of the Social Security Act (42 U.S.C. 1396o) is amended—

(A) in subsection (a)(1), by inserting "(except for a premium imposed under subsection (c))" before the semicolon;

(B) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(C) by inserting after subsection (b) the following new subsection:

"(c)(1) The State plan of a State may at the option of the State provide for imposing a monthly premium (in an amount that does not exceed the limit established under paragraph (2)) with respect to an individual described in subparagraph (A) or (B) of section 1902(l)(1) who is receiving medical assistance on the basis of section 1902(a)(10)(A)(ii)(IX) and whose family income (as determined in accordance with the methodology specified in section 1902(l)(3)) equals or exceeds 150 percent of the nonfarm income official poverty line (as defined by the Office of

Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(2) In no case may the amount of any premium imposed under paragraph (1) exceed 10 percent of the amount by which the family income (less expenses for the care of a dependent child) of an individual exceeds 150 percent of the line described in paragraph (1).

"(3) A State shall not require prepayment of a premium imposed pursuant to paragraph (1) and shall not terminate eligibility of an individual for medical assistance under this title on the basis of failure to pay any such premium until such failure continues for a period of not less than 60 days. The State may waive payment of any such premium in any case where the State determines that requiring such payment would create an undue hardship.

"(4) A State may permit State or local funds available under other programs to be used for payment of a premium imposed under paragraph (1). Payment of a premium with such funds shall not be counted as income to the individual with respect to whom such payment is made.".

(2) The amendments made by paragraph (1) shall become effective on July 1, 1988.

(e) MISCELLANEOUS PROVISIONS RELATING TO SERVICES FOR PREGNANT WOMEN AND CHILDREN.—

(1) Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended, in subdivision (VII) of the matter following subparagraph (E), by striking "and postpartum" and inserting "postpartum, and family planning".

(2) Section 1902(e)(5) of such Act (42 U.S.C. 1396a(e)(5)) is amended by striking "until the end of the 60-day period beginning on the last day of her pregnancy" and inserting "through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends".

(3) Section 1902(l)(3)(E) of such Act (42 U.S.C. 1396a(l)(3)(E)) is amended by inserting after "title IV" the following: "(except to the extent such methodology is inconsistent with clause (D) of subsection (a)(17))".

(4) Section 1902(l)(4)(A) of such Act (42 U.S.C. 1396a(l)(4)(A)) is amended by striking "April 17, 1986" and inserting "July 1, 1987".

(5) Section 1902(l)(4) of such Act (42 U.S.C. 1396a(l)(4)) is amended by adding at the end the following new subparagraph:

"(C) A State plan may not provide, in its election of the option of furnishing medical assistance to individuals described in paragraph (1), that such individuals must apply for benefits under part A of title IV as a condition of applying for, or receiving, medical assistance under this title.".

(6)(A) The amendment made by paragraph (1) shall become effective on the date of enactment of this Act.

(B) The amendments made by paragraphs (2) and (3) shall be effective as if they had been included in the enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985.

(C) The amendment made by paragraph (4) shall apply to elections made on or after the enactment of this Act.

(D) The amendment made by paragraph (5) shall apply as if included in the enactment of section 9401 of the Omnibus Budget Reconciliation Act of 1986.

SEC. 4118. TECHNICAL AND MISCELLANEOUS AMENDMENTS.

(c) KATIE BECKETT TECHNICAL.—

(1) Section 1902(e)(3)(C) of such Act (42 U.S.C. 1396a(e)(3)(C)) is amended by striking "to have a supplemental security income (or State supplemental) payment made with respect to him under title XVI" and inserting "for medical assistance under the State plan under this title".

(2) The amendment made by paragraph (1) shall be effective as if it were included in section 134 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 9136. NATIONAL COMMISSION ON CHILDREN.

Part A of title XI of the Social Security Act is amended by adding at the end the following new section:

"NATIONAL COMMISSION ON CHILDREN

"SEC. 1139. (a)(1) There is hereby established a commission to be known as the National Commission on Children (in this section referred to as the 'Commission').

"(b)(1) The Commission shall consist of—

"(A) 12 members to be appointed by the President,

"(B) 12 members to be appointed by the Speaker of the House of Representatives, and

"(C) 12 members to be appointed by the President pro tempore of the Senate.

"(2) The President, the Speaker, and the President pro tempore shall each appoint as members of the Commission—

"(A) 4 individuals who—

"(i) are representatives of organizations providing services to children,

"(ii) are involved in activities on behalf of children, or

"(iii) have engaged in academic research with respect to the problems and needs of children,

"(B) 4 individuals who are elected or appointed public officials (at the Federal, State, or local level) involved in issues and programs relating to children, and

"(C) 4 individuals who are parents or representatives of parents or parents' organizations.

"(3) The appointments made pursuant to subparagraphs (B) and (C) of paragraph (1) shall be made in consultation with the chairmen of committees of the House of Representatives and the Senate, respectively, having jurisdiction over relevant Federal programs.

"(c)(1) It shall be the duty and function of the Commission to serve as a forum on behalf of the children of the Nation and to conduct the studies and issue the report required by subsection (d).

"(2) The Commission (and any committees that it may form) shall conduct public hearings in different geographic areas of the country, both urban and rural, in order to receive the views of a broad spectrum of the public on the status of the Nation's children and on ways to safeguard and enhance the physical, mental, and emotional well-being of all of the children of the Nation, including those with physical or mental disabilities, and others whose circumstances deny them a full share of the opportunities that parents of the Nation may rightfully expect for their children.

"(3) The Commission shall receive testimony from individuals, and from representatives of public and private organizations and institutions with an interest in the welfare of children, including educators, health care professionals, religious leaders, providers of social services, representatives of organizations with children as members, elected and appointed public officials, and from parents and children speaking in their own behalf.

"(d) The Commission shall submit to the President, and to the Committees on Finance and Labor and Human Resources of the Senate and the Committees on Ways and Means, Education and Labor, and Energy and Commerce of the House of Representatives, an interim report no later than September 30, 1988, and a final report no later than March 31, 1989, setting forth recommendations with respect to the following subjects:

"(1) Questions relating to the health of children that the Commission shall address include—

"(A) how to reduce infant mortality,

"(B) how to reduce the number of low-birth-weight babies,

"(C) how to reduce the number of children with chronic illnesses and disabilities,

"(D) how to improve the nutrition of children,

"(E) how to promote the physical fitness of children,

"(F) how to ensure that pregnant women receive adequate prenatal care,

"(G) how to ensure that all children have access to both preventive and acute care health services, and

"(H) how to improve the quality and availability of health care for children.

"(2) Questions relating to social and support services for children and their parents that the Commission shall address include—

"(A) how to prevent and treat child neglect and abuse,

"(B) how to provide help to parents who seek assistance in meeting the problems of their children,

"(C) how to provide counseling services for children,

"(D) how to strengthen the family unit,

"(E) how children can be assured of adequate care while their parents are working or participating in education or training programs,

"(F) how to improve foster care and adoption services,

"(G) how to reduce drug and alcohol abuse by children and youths, and

"(H) how to reduce the incidence of teenage pregnancy.

"(3) Questions relating to education that the Commission shall address include—

"(A) how to encourage academic excellence for all children at all levels of education,

"(B) how to use preschool experiences to enhance educational achievement, "(C) how to improve the qualifications of teachers,

"(D) how schools can better prepare the Nation's youth to compete in the labor market,

"(E) how parents and schools can work together to help children achieve success at each step of the academic ladder,

"(F) how to encourage teenagers to complete high school and remain in school to fulfill their academic potential,

"(G) how to address the problems of drug and alcohol abuse by young people,

"(H) how schools might lend support to efforts aimed at reducing the incidence of teenage pregnancy, and

"(I) how schools might better meet the special needs of children who have physical or mental handicaps.

"(4) Questions relating to income security that the Commission shall address include—

"(A) how to reduce poverty among children,

"(B) how to ensure that parents support their children to the fullest extent possible through improved child support collection services, including services on behalf of children whose parents are unmarried, and

"(C) how to ensure that cash assistance to needy children is adequate.

"(5) Questions relating to tax policy that the Commission shall address include—

"(A) how to assure the equitable tax treatment of families with children,

"(B) the effect of existing tax provisions, including the dependent care tax credit, the earned income tax credit, and the targeted jobs tax credit, on children living in poverty,

"(C) whether the dependent care tax credit should be refundable and the effect of such a policy,

"(D) whether the earned income tax credit should be adjusted for family size and the effect of such a policy, and

"(E) whether there are other tax-related policies which would reduce poverty among children.

"(6) In addition to addressing the questions specified in paragraphs (1) through (5), the Commission shall—

"(A) seek to identify ways in which public and private organizations and institutions can work together at the community level to identify deficiencies in existing services for families and children and to develop recommendations to ensure that the needs of families and children are met, using all available resources, in a coordinated and comprehensive manner, and

"(B) assess the existing capacities of agencies to collect and analyze data on the status of children and on relevant programs, identify gaps in the data collection system, and recommend ways to improve the collection of data and the coordination among agencies in the collection and utilization of data.

The reports required by this subsection shall be based upon the testimony received in the hearings conducted pursuant to subsection (c), and upon other data and findings developed by the Commission.

"(e)(1)(A) Members of the Commission shall first be appointed not later than 60 days after the date of the enactment of this section, for terms ending on March 31, 1989.

"(B) A vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the vacant position was first filled.

"(2) The Commission shall elect one of its members to serve as Chairman of the Commission. The Chairman shall be a nonvoting member of the Commission.

"(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

"(4)(A) The Commission shall meet at the call of the Chairman, or at the call of a majority of the members of the Commission.

"(B) The Commission shall meet not less than 4 times during the period beginning with the date of the enactment of this section and ending with March 31, 1989.

"(5) Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

"(6) Members of the Commission shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

"(f)(1) The Commission shall appoint an Executive Director of the Commission who shall be compensated at a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule under title 5, United States Code.

"(2) In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(g) In carrying out its duties, the Commission, or any duly organized committee thereof, is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which it has a responsibility under this section, as the Commission or committee may deem advisable.

"(h)(1) The Commission may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities.

"(2) Upon request of the Commission, any such department or agency shall furnish any such data or information.

"(i) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

"(j) There are authorized to be appropriated such sums as may be necessary to carry out this section.".

P.L. 99-509—OMNIBUS BUDGET RECONCILIATION ACT OF 1986

TITLE IX, SUBTITLE E—MEDICAID AND MATERNAL AND CHILD HEALTH

SEC. 9401. OPTIONAL COVERAGE OF POOR PREGNANT WOMEN, INFANTS, AND CHILDREN.

(a) CREATION OF NEW OPTIONAL CATEGORICALLY NEEDY GROUP.— Section 1902(a)10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(1) by striking ", or" at the end of subclause (VII) and inserting a semicolon,

(2) by inserting "or" at the end of subclause (VIII), and

(3) by adding at the end the following new subclause:

"(IX) subject to subsection (l)(4), who are described in subsection (l)(1);".

(b) DESCRIPTION OF GROUP.—Section 1902 of such Act is amended by inserting after subsection (k) the following new subsection:

"(l)(1) Individuals described in this paragraph are—

"(A) women during pregnancy (and during the 60-day period beginning on the last day of the pregnancy),

"(B) infants under one year of age,

"(C) children who have attained one year of age but have not attained two years of age,

"(D) children who have attained two years of age but have not attained three years of age,

"(E) children who have attained three years of age but have not attained four years of age, and

"(F) children who have attained four yearn of age but have not yet. attained five years of age,

who are not described in subsection (a)(10)(A)(i), whose family income does not exceed the income level established by the State under paragraph (2) for a family size equal to the size of the family, including the woman, infant, or child.

"(2) For purposes of paragraph (1), the State shall establish an income level which is a percentage (not more than 100 percent) of the nonfarm income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(3) Notwithstanding subsection (a)(17), for individuals who are eligible for medical assistance because of subsection (a)(10)(A)(ii)(IX)—

"(A) application of a resource standard shall be at the option of the State;

"(B) any resource standard or methodology that is applied with respect to an individual described in subparagraph (A) of paragraph (1) may not be more restrictive than the resource standard or methodology that is applied under title XVI;

"(C) any resource standard or methodology that is applied with respect to an individual described in subparagraph (B), (C), (D), (E), or (F) of paragraph (1) may not be more restrictive than the corresponding methodology that is applied under the State plan under part A of title IV;

"(D) the income standard to be applied is the income standard established under paragraph (2); and

"(E) family income shall be determined in accordance with the methodology employed under the State plan under part A or E of title IV, and costs incurred for medical care or for any other type of remedial care shall not be taken into account. Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(17), require or permit such treatment for other individuals.

"(4)(A) A State plan may not elect the option of furnishing medical assistance to individuals described in subsection (a)(10)(A)(ii)(IX) unless the State has in effect, under its plan established under part A of title IV, payment levels that are not less than the payment levels in effect under its plan on April 17, 1986.

"(B)(i) A State may not elect, under subsection (a)(10)(A)(ii)(IX), to cover only individuals described in paragraph (1)(A) or to cover only individuals described in paragraph (1)(B).

"(ii) A State may not elect, under subsection (a)(10)(A)(ii)(IX), to cover individuals described in subparagraph (C), (D), (E), or (F) of paragraph (1) unless the State has elected, under such subsection, to cover individuals described in the preceding subparagraphs of such paragraph.".

(C) LIMITED BENEFITS FOR NEWLY ELIGIBLE PREGNANT WOMEN.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended, in the matter after subparagraph (D)—

(1) by striking "and" before "(VI)", and

(2) by inserting before the semicolon at the end the following: ", and (VII) the medical assistance made available to an individual described in subsection (l)(1)(A) who is eligible for medical assistance only because of subparagraph (A)(ii)(IX) shall be limited to medical assistance for services related to pregnancy (including prenatal, delivery, and postpartum services) and to other conditions which may complicate pregnancy".

(d) CONTINUATION OF MEDICAL ASSISTANCE FOR CERTAIN PREGNANT WOMEN DURING PREGNANCY AND FOR CERTAIN INFANTS AND CHILDREN RECEIVING INPATIENT SERVICES.—Section 1902(e) of such Act (49 U.S.C. 1396a(e)) is amended by adding at the end the following new paragraphs:

"(6) At the option of a State, if a State plan provides medical assistance for individuals under subsection (a)(10)(A)(ii)(IX), the plan may provide that any woman described in such subsection and subsection (l)(1)(A) shall continue to be treated as an individual described in subsection (a)(10)(A)(ii)(IX) without regard to any change in income of the family of which she is a member until the end of the 60-day period beginning on the last day of her pregnancy.

"(7) If a State plan provides medical assistance for individuals under subsection (a)(10)(A)(ii)(IX), in the case of an infant or child described in subparagraph (B), (C), (D), (E), or (F) of subsection (l)(1)—

"(A) who is receiving inpatient services for which medical assistance is provided on the date the infant or child attains the maximum age with respect to which coverage is provided under the State plan for such individuals, and

"(B) who, but for attaining such age, would remain eligible for medical assistance under such subsection,

the infant or child shall continue to be treated as an individual described in subsection (a)(10)(A)(ii)(IX) and subsection (l)(1) until the end of the stay for which the inpatient services are furnished.".

(e) CONFORMING AMENDMENTS.—

(1) Section 1902(a)(17) of such Act (42 U.S.C. 1396(a)(17)) is amended by inserting "except as provided in subsection (l)(3)," after "(17)".

(2) Section 1903(f)(4) of such Act (42 U.S.C. 1396b(f)(4)) is amended by inserting "for any individual described in section 1902(a)(10)(A)(ii)(IX) or" after "as medical assistance".

(f) EFFECTIVE DATES.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to medical assistance furnished in calendar quarters beginning on or after April 1, 1987.

(2)(A) Subparagraph (C) of section 1902(l)(1) of the Social Security Act, as added by subsection (b) of this section, shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1987.

(B) Subparagraph (D) of section 1902(l)(1) of the Social Security Act, as added by subsection (b) of this section, shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1987.

(C) Subparagraph (E) of section 1901(l)(1) of the Social Security Act, as added by subsection (b) of this section, shall apply to medical assistance furnished in calendar quarters beginning on or after October 1,1988.

(D) Subparagraph (F) of section 1901(l)(1) of the Social Security Act, as added by subsection (b) of this section, shall apply to medical assistance furnished in calendar quarters beginning on or after October 1, 1989.

(3) An amendment made by this section shall become effective as provided in paragraph (1) or (2) without regard to whether or not final regulations to carry out such amendment have been promulgated by the applicable date.

SEC. 9406. PAYMENT FOR ALIENS UNDER MEDICAID.

(a) IN GENERAL.—Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by adding at the end thereof the following new subsection:

"(v)(1) Notwithstanding the preceding provisions of this section, except as provided in paragraph (2), no payment may be made to a State under this section for medical assistance furnished to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

"(2) Payment shall be made under this section for care and services that are furnished to an alien described in paragraph (1) only if—

"(A) such care and services are necessary for the treatment of an emergency medical condition of the alien, and

"(B) such alien otherwise meets the eligibility requirements for medical assistance under the State plan approved under this title (other than the requirement of the receipt of aid or assistance under title IV, supplemental security income benefits under title XVI, or a State supplementary payment).

"(3) For purposes of this subsection, the term 'emergency medical condition' means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in—

"(A) placing the patient's health in serious jeopardy,

"(B) serious impairment to bodily functions, or

"(C) serious dysfunction of any bodily organ or part.".

(b) CONFORMING AMENDMENT.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended by adding at the end thereof the following new sentence: "Notwithstanding paragraph (10)(B) or any other provision of this subsection, a State plan shall provide medical assistance with respect to an alien who is not lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law only in accordance with section 1903(v).".

(c) EFFECTIVE DATE.—

(1) Except as provided in paragraph (2), the amendments made by this section shall apply to medical assistance furnished to aliens on or after January 1, 1987, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order

for the plan to meet the additional requirement imposed by the amendment made in subsection (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet such additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

SEC. 9407. OPTIONAL PRESUMPTIVE ELIGIBILITY PERIOD FOR PREGNANT WOMEN.

(a) STATE OPTION.—Section 1902(a) of such Act (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (45),

(2) by striking the period at the end of paragraph (46) and inserting in lieu thereof "; and", and

(3) by adding at the end the following:

"(47) at the option of the State, provide for making ambulatory prenatal care available to pregnant women during a presumptive eligibility period in accordance with section 1920.".

(b) PRESUMPTIVE ELIGIBILITY.—Title XIX of the Social Security Act is amended by redesignating section 1920 as section 1921 and inserting after section 1919 the following new section:

"PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN

"SEC. 1920. (a) A State plan approved under section 1902 may provide for making ambulatory prenatal care available to a pregnant woman during a presumptive eligibility period.

"(b) For purposes of this section—

"(1) the term 'presumptive eligibility period' means, with respect to a pregnant woman, the period that—

"(A) begins with the date on which a qualified provider determines, on the basis of preliminary information, that the family income of the woman does not exceed the applicable income level of eligibility under the State plan, and

"(B) ends with (and includes) the earlier of—

"(i) the day on which a determination is made with respect to the eligibility of the woman for medical assistance under the State plan,

"(ii) the day that is 45 days after the date on which the provider makes the determination referred to in subparagraph (A), or

"(iii) in the case of a woman who does not file an application for medical assistance within 14 calendar days after the date on which the provider makes the determination referred to in subparagraph (A), the fourteenth calendar day after such determination is made; and

"(2) the term 'qualified provider' means any provider that—

"(A) is eligible for payments under a State plan approved under this title,

"(B) provides services of the type described in subparagraph (A) or (B) of section 1905(a)(2) or in section 1905(a)(9),

"(C) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A), and

"(D)(i) receives funds under—

"(I) section 329 or section 330 of the Public Health Service Act, or

"(II) title V of this Act;

"(ii) participates in a program established under—

"(I) section 17 of the Child Nutrition Act of 1966, or

"(II) section 4(a) of the Agriculture and Consumer Protection Act of 1973; or

"(iii) participates in a State perinatal program.

"(c)(1) The State agency shall provide qualified providers with—

"(A) such forms as are necessary for a pregnant woman to make application for medical assistance under the State plan, and

"(B) information on how to assist such women in completing and filing such forms.

"(2) A qualified provider that determines under subsection (b)(1)(A) that a pregnant woman is presumptively eligible for medical assistance under a State plan shall—

"(A) notify the State agency of the determination within 5 working days after the date on which determination is made, and

"(B) inform the woman at the time the determination is made that she is required to make application for medical assistance under the State plan within 14 calendar days after the date on which the determination is made.

"(3) A pregnant woman who is determined by a qualified provider to be presumptively eligible for medical assistance under a State plan shall make application for medical assistance under such plan within 14 calendar days after the date on which the determination is made.

"(d) Notwithstanding any other provision of this title, ambulatory prenatal care that—

"(1) is furnished to a pregnant woman—

"(A) during a presumptive eligibility period,

"(B) by a qualified provider; and

"(2) is included in the care and services covered by a State plan;

shall be treated as medical assistance provided by such plan for purposes of section 1903.".

(c) CONFORMING CHANGE.—Section 1903(u)(1)(D) of such Act (42 U.S.C. 1396b(u)(1)(D)) is amended by adding at the end the following:

"(v) In determining the amount of erroneous excess payments, there shall not be included any erroneous payments made for ambulatory prenatal care provided during a presumptive eligibility period (as defined in section 1920(b)(1)).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to ambulatory prenatal care furnished in calendar quarters beginning on or after April 1, 1987, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

SEC. 9408. RESPIRATORY CARE SERVICES FOR VENTILATOR-DEPENDENT INDIVIDUALS.

(a) REQUIRED SERVICES.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396b(e)), as amended by sections 9401(d) and 9403(f) of this subtitle, is further amended by adding at the end the following new paragraph:

"(9)(A) At the option of the State, the plan may include as medical assistance respiratory care services for any individual who—

"(i) is medically dependent on a ventilator for life support at least six hours per day;

"(ii) has been so dependent for at least 30 consecutive days (or the maximum number of days authorized under the State plan, whichever is less) as an inpatient;

"(iii) but for the availability of respiratory care services, would require respiratory care as an inpatient in a hospital, skilled nursing facility, or intermediate care facility, and would be eligible to have payment made for such inpatient care under the State plan;

"(iv) has adequate social support services to be cared for at home; and

"(v) wishes to be cared for at home.

"(B) The requirements of subparagraph (A)(ii) may be satisfied by a continuous stay in one or more hospitals, skilled nursing facilities, or intermediate care facilities.

"(C) For purposes of this paragraph, respiratory care services means services provided on a part-time basis in the home of the individual by a respiratory therapist or other health care professional trained in respiratory therapy (as determined by the State), payment for which is not otherwise included within other items and services furnished to such individual as medical assistance under the plan.".

(b) WAIVER OF COMPARABILITY.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)), as amended by sections 9401(c), 9403(a), and 9403(c) of this subtitle, is further amended, in the matter following subparagraph (E)—

(1) by striking "and" before "(VIII)"; and

(2) by inserting before the semicolon at the end thereof the following: ", and (IX) the making available of respiratory care services in accordance with subsection (e)(9) shall not, by reason of this paragraph (10), require the making available of such services, or the making available of such services of the same amount, duration, and scope, to any individuals not included under subsection (e)(9)(A), provided such services are made available (in the same amount, duration, and scope) to all individuals described in such subsection".

(c) CONFORMING CHANGES.—

(1) Section 1905(a) of the Social Security Act (42 U.S.C. 1395d(a)), as amended by section 1895(c)(3) of the Tax Reform Act of 1986, is further amended—

(A) by striking "and" at the end of paragraph (19),

(B) by redesignating paragraph (20) as paragraph (21), and

(C) by inserting after paragraph (19) the following new paragraph:

"(20) respiratory care services (as defined in section 1902(e)(9)(C)); and".

(2) Section 1902(j) of the Social Security Act (42 U.S.C. 1396a(j)), as amended by section 1895(c)(3) of the Tax Reform Act of 1986, is amended by striking "(20)" and inserting in lieu thereof "(21)".

(3) Section 1902(a)(10)(C)(iv) of the Social Security Act (42 U.S.C. 1396a(a)(10)(C)(iv)), as amended by section 1895(c)(3) of the Tax Reform Act of 1986, is amended by striking "through (19)" and inserting in lieu thereof "through (20)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to services furnished on or after the date of the enactment of this Act.

SEC. 9441. AUTHORIZATION AND ALLOTMENT OF ADDITIONAL FUNDS.

(a) ADDITIONAL FUNDS.—Section 501(a) of the Social Security Act (42 U.S.C. 701(a)) is amended by striking "$478,000,000 for fiscal year 1984" and inserting "$553,000,000 for fiscal year 1987, $557,000,000 for fiscal year 1988, and $561,000,000 for fiscal year 1989".

(b) ALLOTMENT OF ADDITIONAL APPROPRIATIONS.—Section 502 of such Act (42 U.S.C. 702) is amended—

(1) in subsection (a)(1) by striking "amount appropriated under section 501(a)" and inserting in lieu thereof "amounts appropriated under section 501(a) for a fiscal year that are not in excess of $478,000,000";

(2) in subsection (b)—

(A) by inserting "that are not in excess of $478,000,000" after "fiscal year" the first place it appears, and

(B) by striking paragraph (3); and

(3) by adding at the end the following new subsections:

"(c)(1) Of the amounts appropriated for a fiscal year in excess of $478,000,000, an amount equal to 7 percent for fiscal year 1987, 8 percent for fiscal year 1988, and 9 percent for fiscal year 1989 shall be retained by the Secretary for the purpose of carrying out (through grants, contracts, or otherwise) projects for the screening of newborns for sickle-cell anemia and other genetic disorders. The provisions of paragraph (3) of subsection (a) shall apply to projects authorized by this paragraph to the same extent as such provisions apply to projects authorized under such subsection.

"(2)(A) Of the amounts appropriated for a fiscal year in excess of $478,000,000 that remain after the Secretary has retained the applicable amount (if any) for such fiscal year under paragraph (1), an amount equal to 33 1/3 percent shall be retained and allotted in the same manner as the amounts retained and allotted under subsections (a) and (b).

"(B) The amounts retained by the Secretary under this paragraph shall be used for the purpose of carrying out (through grants, contracts, or otherwise) special projects of regional or national significance, training, and research to promote access to primary health services for children and community-based service networks and case management services for children with special health care needs.

"(C) The amounts allotted to the States under this paragraph shall be used to develop primary health services demonstration programs and projects for children and to promote the development of community-based service networks and case management services for children with special health care needs.

"(D) For purposes of this paragraph—

"(i) the term 'primary health services' includes—

"(I) any assessment, diagnosis, or treatment service provided on an outpatient basis that is designed to promote the health, to prevent the development of disease or disability, or to treat an illness or other health condition, of a child, and

"(II) any service designated to promote the access of children to high quality, continuous, and comprehensive primary health services, including case management;

"(ii) the term 'community-based service network for children with special health care needs' means a network of coordinated, high-quality services that is located in or near the home communities of children with special health care needs in order to improve the health status, functioning, and well being of such children;

"(iii) the term 'case management services' means services to promote the effective and efficient organization and utilization of resources to assure access to necessary comprehensive services for children and their families; and

"(iv) the term 'comprehensive services' includes early identification and intervention services, diagnostic and evaluation services, treatment services, rehabilitation services, family support services, and special education services.

"(3) Of the amounts appropriated for a fiscal year in excess of $478,000,000 that remain after the Secretary has retained the applicable amount (if any) for such fiscal year under paragraph (1), an amount equal to 66 2/3 percent shall be retained and allotted in the same manner and for the same purposes as the amounts retained and allotted under subsections (a) and (b).

"(d)(1) To the extent that all the funds appropriated under this title for a fiscal year are not otherwise allotted to States either because all the States have not qualified for such allotments under section 505 for the fiscal year or because some States have indicated in their descriptions of activities under section 505 that they do not intend to use the full amount of such allotments, such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.

"(2) To the extent that all the funds appropriated under this title for a fiscal year are not otherwise allotted to States because some State allotments are offset under section 506(b)(2), such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this paragraph.".

SEC. 9442. MATERNAL AND CHILD HEALTH AND ADOPTION CLEARINGHOUSE.

The Secretary of Health and Human Services shall establish, either directly or by grant or contract, a National Adoption Information Clearinghouse. The Clearinghouse shall—

(1) collect, compile, and maintain information obtained

from available research, studies, and reports by public and private agencies, institutions, or individuals concerning all aspects of infant adoption and adoption of children with special needs;

(2) compile, maintain, and periodically revise directories of information concerning—

(A) crisis pregnancy centers,

(B) shelters and residences for pregnant women,

(C) training programs on adoption,

(D) educational programs on adoption,

(E) licensed adoption agencies,

(F) State laws relating to adoption,

(G) intercountry adoption,

(H) any other information relating to adoption for pregnant women, infertile couples, adoptive parents, unmarried individuals who want to adopt children, individuals who have been adopted, birth parents who have placed a child for adoption, agencies, social workers, counselors, or other individuals who work in the adoption field;

(3) disseminate the information compiled and maintained pursuant to paragraph (1) and the directories compiled and maintained pursuant to paragraph (2); and

(4) upon the establishment of an adoption and foster care data collection system pursuant to section 479 of the Social Security Act, disseminate the data and information made available through that system.

P.L. 99-457—EDUCATION OF THE HANDICAPPED AMENDMENTS OF 1986

TITLE I—HANDICAPPED INFANTS AND TODDLERS

SEC. 101. ADDITION OF A NEW PART RELATING TO HANDICAPPED INFANTS AND TODDLERS.

(a) AMENDMENT.—The Act is amended by inserting after the part added by section 316 the following new part:

"Part H—Handicapped Infants and Toddlers

"FINDINGS AND POLICY

"SEC. 671. (a) FINDINGS.—The Congress finds that there is an urgent and substantial need—

"(1) to enhance the development of handicapped infants and toddlers and to minimize their potential for developmental delay,

"(2) to reduce the educational costs to our society, including our Nation's schools, by minimizing the need for special education and related services after handicapped infants and toddlers reach school age,

"(3) to minimize the likelihood of institutionalization of handicapped individuals and maximize the potential for their independent living in society, and

"(4) to enhance the capacity of families to meet the special needs of their infants and toddlers with handicaps.

"(b) POLICY.—It is therefore the policy of the United States to provide financial assistance to States—

"(1) to develop and implement a statewide, comprehensive, coordinated, multidisciplinary, interagency program of early intervention services for handicapped infants and toddlers and their families,

"(2) to facilitate the coordination of payment for early intervention services from Federal, State, local, and private sources (including public and private insurance coverage), and

"(3) to enhance its capacity to provide quality early intervention services and expand and improve existing early intervention services being provided to handicapped infants, toddlers and their families.

"DEFINITIONS

"SEC. 672. As used in this part—

"(l) The term 'handicapped infants and toddlers' means individuals from birth to age 2, inclusive, who need early intervention services because they—

"(A) are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures in one or more of the following areas: Cognitive development, physical development, language and speech development, psycnosocial development, or self-help skills, or

"(B) have a diagnosed physical or mental condition which has a high probability of resulting in developmental delay. Such term may also include, at a State's discretion, individuals from birth to age 2, inclusive, who are at risk of having substantial developmental delays if early intervention services are not provided.

"(2) 'Early intervention services' are developmental services which—

"(A) are provided under public supervision,

"(B) are provided at no cost except where Federal or State law provides for a system of payments by families, including a schedule of sliding fees,

"(C) are designed to meet a handicapped infant's or toddler's developmental needs in any one or more of the following areas:

"(i) physical development,

"(ii) cognitive development,

"(iii) language and speech development,

"(iv) psychosocial development, or

"(v) self-help skills,

"(D) meet the standards of the State, including the requirements of this part,

"(E) include—

"(i) family training, counseling, and home visits,

"(ii) special instruction,

"(iii) speech pathology and audiology,

"(iv) occupational therapy,

"(v) physical therapy,

"(vi) psychological services,

"(vii) case management services,

"(viii) medical services only for diagnostic or evaluation purposes,

"(ix) early identification, screening, and assessment services, and

"(x) health services necessary to enable the infant or toddler to benefit from the other early intervention services,

"(F) are provided by qualified personnel, including—

"(i) special educators,

"(ii) speech and language pathologists and audiologists,

"(iii) occupational therapists,

"(iv) physical therapists,

"(v) psychologists,

"(vi) social workers,
"(vii) nurses, and
"(viii) nutritionists, and

"(G) are provided in conformity with an individualized family service plan adopted in accordance with section 677.

"(3) The term 'developmental delay' has the meaning given such term by a State under section 676(b)(1).

"(4) The term 'Council' means the State Interagency Coordinating Council established under section 682.

"GENERAL AUTHORITY

"SEC. 673. The Secretary shall, in accordance with this part, make grants to States (from their allocations under section 684) to assist each State to develop a statewide, comprehensive, coordinated, multidisciplinary, interagency system to provide early intervention services for handicapped infants and toddlers and their families.

"GENERAL ELIGIBILITY

"SEC. 674. In order to be eligible for a grant under section 673 for any fiscal year, a State shall demonstrate to the Secretary (in its application under section 678) that the State has established a State Interagency Coordinating Council which meets the requirements of section 682.

"CONTINUING ELIGIBILITY

"SEC. 675. (a) FIRST TWO YEARS.—In order to be eligible for a grant under section 673 for the first or second year of a State's participation under this part, a State shall include in its application under section 678 for that year assurances that funds received under section 673 shall be used to assist the State to plan, develop, and implement the statewide system required by section 676.

(b) THIRD AND FOURTH YEAR.—(1) In order to be eligible for a grant under section 673 for the third or fourth year of a State's participation under this part, a State shall include in its application under section 678 for that year information and assurances demonstrating to the satisfaction of the Secretary that—

"(A) the State has adopted a policy which incorporates all of the components of a statewide system in accordance with section 676 or obtained a waiver from the Secretary under paragraph (2),

"(B) funds shall be used to plan, develop, and implement the statewide system required by section 676, and

"(C) such statewide system will be in effect no later than the beginning of the fourth year of the State's participation under section 673, except that with respect to section 676(b)(4), a State need only conduct multidisciplinary assessments, develop individualized family service plans, and make available case management services.

"(2) Notwithstanding paragraph (1), the Secretary may permit a State to continue to receive assistance under section 673 during such third year even if the State has not adopted the policy required by paragraph (1)(A) before receiving assistance if the State demonstrates in its application—

"(A) that the State has made a good faith effort to adopt such a policy,

"(B) the reasons why it was unable to meet the timeline and the steps remaining before such a policy will be adopted, and

"(C) an assurance that the policy will be adopted and go into effect before the fourth year of such assistance.

(c) FIFTH AND SUCCEEDING YEARS.—In order to be eligible for a grant under section 673 for a fifth and any succeeding year of a State's participation under this part, a State shall include in its application under section 678 for that year information and assurances demonstrating to the satisfaction of the Secretary that the State has in effect the statewide system required by section 676 and a description of services to be provided under section 676(b)(2).

"(d) EXCEPTION.—Notwithstanding subsections (a) and (b), a State which has in effect a State law, enacted before September 1, 1986 that requires the provision of free appropriate public education to handicapped children from birth through age 2, inclusive, shall be eligible for a grant under section 673 for the first through fourth years of a State's participation under this part.

"REQUIREMENTS FOR STATEWIDE SYSTEM

SEC. 676. (a) IN GENERAL.—A statewide system of coordinated comprehensive, multidisciplinary, interagency programs providing appropriate early intervention services to all handicapped infants and toddlers and their families shall include the minimum components under subsection (b).

"(b) MINIMUM COMPONENTS.—The statewide system required by subsection (a) shall include, at a minimum—

"(1) a definition of the term 'developmentally delayed' that will be used by the State in carrying out programs under this part,

"(2) timetables for ensuring that appropriate early intervention services will be available to all handicapped infants and toddlers in the State before the beginning of the fifth year of a State's participation under this part, "(3) a timely, comprehensive, multidisciplinary evaluation of the functioning of each handicapped infant and toddler in the State and the needs of the families to appropriately assist in the development of the handicapped infant or toddler,

"(4) for each handicapped infant and toddler in the State, an individualized family service plan in accordance with section 677, including case management services in accordance with such service plan,

"(5) a comprehensive child find system; consistent with part B, including a system for making referrals to service providers that includes timelines and provides for the participation by primary referral sources,

"(6) a public awareness program focusing on early identification of handicapped infants and toddlers,

"(7) a central directory which includes early intervention *services*, resources, and experts available in the State and research and demonstration projects being conducted in the State,

"(8) a comprehensive system of personnel development,

"(9) a single line of responsibility in a lead agency designated or established by the Governor for carrying out—

"(A) the general administration, supervision, and monitoring of programs and activities receiving assistance under section 673 to ensure compliance with this part,

"(B) the identification and coordination of all available resources within the State from Federal, State, local and private sources,

"(C) the assignment of financial responsibility to the appropriate agency,

"(D) the development of procedures to ensure that services are provided to handicapped infants and toddlers and their families in a timely manner pending the resolution of any disputes among public agencies or service providers,

"(E) the resolution of intra- and interagency disputes, and

"(F) the entry into formal interagency agreements that define the financial responsibility of each agency for paying for early intervention services (consistent with State law) and procedures for resolving disputes and that include all additional components necessary to ensure meaningful cooperation and coordination,

"(10) a policy pertaining to the contracting or making of other arrangements with service providers to provide early intervention services in the State, consistent with the provisions of this part, including the contents of the application used and the conditions of the contract or other arrangements,

"(11) a procedure for securing timely reimbursement of funds used under this part in accordance with section 681(a).

"(12) procedural safeguards with respect to programs under this part as required by section 680, and

"(13) policies and procedures relating to the establishment and maintenance of standards to ensure that personnel necessary to carry out this part are appropriately and adequately prepared and trained, including—

"(A) the establishment and maintenance of standards which are consistent with any State approved or recognized certification, licensing, registration, or other comparable requirements which apply to the area in which such personnel are providing early intervention services, and

"(B) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel that meet appropriate professional requirements in the State, and

"(14) a system for compiling data on the numbers of handicapped infants and toddlers and their families in the State in need of appropriate early intervention services (which may be based on a sampling of data), the numbers of such infants and toddlers and their families served, the types of services provided (which may be based on a sampling of data), and other information required by the Secretary.

"INDIVIDUALIZED FAMILY SERVICE PLAN

"SEC. 677. (a) ASSESSMENT AND PROGRAM DEVELOPMENT.—Each handicapped infant or toddler and the infant or toddler's family shall receive—

"(1) a multidisciplinary assessment of unique needs and the identification of services appropriate to meet such needs, and

"(2) a written individualized family service plan developed by a multidisciplinary team, including the parent or guardian, as required by subsection (d).

"(b) PERIODIC REVIEW.—The individualized family service plan shall be evaluated once a year and the family shall be provided a review of the plan at 6-month intervals (or more often where appropriate based on infant and toddler and family needs).

"(c) PROMPTNESS AFTER ASSESSMENT.—The individualized family service plan shall be developed within a reasonable time after the assessment required by subsection (a)(1) is completed. With the parent's consent, early intervention services may commence prior to the completion of such assessment.

(d) CONTENT OF PLAN.—The individualized family service plan shall be in writing and contain—

"(1) a statement of the infant's or toddler's present levels of physical development, cognitive development, language and speech development, psychosocial development, and self-help skills, based on acceptable objective criteria,

"(2) a statement of the family's strengths and needs relating to enhancing the development of the family's handicapped infant or toddler,

"(3) a statement of the major outcomes expected to be achieved for the infant and toddler and the family, and the criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes are being made and whether modifications or revisions of the outcomes or services are necessary,

"(4) a statement of specific early intervention services necessary to meet the unique needs of the infant or toddler and the family, including the frequency, intensity, and the method of delivering services,

"(5) the projected dates for initiation of services and the anticipated duration of such services,

"(6) the name of the case manager from the profession most immediately relevant to the infant's and toddler's or family's needs who will be responsible for the implementation of the plan and coordination with other agencies and persons, and

"(7) the steps to be taken supporting the transition of the handicapped toddler to services provided under part B to the extent such services are considered appropriate.

"STATE APPLICATION AND ASSURANCES

"SEC. 678. (a) APPLICATION.—Any State desiring to receive a grant under section 673 for any year shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require by regulation. Such an application shall contain—

"(1) a designation of the lead agency in the State that will be responsible for the administration of funds provided under section 673,

"(2) information demonstrating eligibility of the State under section 674,

"(3) the information or assurances required to demonstrate eligibility of the State for the particular year of participation under section 675, and

"(4)(A) information demonstrating that the State has provided (i) public hearings, (ii) adequate notice of such hearings, and (iii) an opportunity for comment to the general public before the submission of such application and before the adoption by the State of the policies described in such application, and (B) a summary of the public comments and the State's responses, "(5) a description of the uses for which funds will be expended in accordance with this part and for the fifth and succeeding fiscal years a description of the services to be provided,

"(6) a description of the procedure used to ensure an equitable distribution of resources made available under this part among all geographic areas within the State, and

"(7) such other information and assurances as the Secretary may reasonably require by regulation.

(b) STATEMENT OF ASSURANCES.—Any State desiring to receive a grant under section 673 shall file with the Secretary a statement at such time and in such manner as the Secretary may reasonably require by regulation. Such statement shall—

"(1) assure that funds paid to the State under section 673 will be expended in accordance with this part,

"(2) contain assurances that the State will comply with the requirements of section 681,

"(3) provide satisfactory assurance that the control of funds provided under section 673, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this part and that a public agency will administer such funds and property,

"(4) provide for (A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part, and (B) keeping such records and affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this part,

"(5) provide satisfactory assurance that Federal funds made available under section 673 (A) will not be commingled with State funds, and (B) will be so used as to supplement and increase the level of State and local funds expended for handicapped infants and toddlers and their families and in no case to supplant such State and local funds,

"(6) provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under section 673 to the State, and

"(7) such other information and assurances as the Secretary may reasonably require by regulation.

(c) APPROVAL OF APPLICATION AND ASSURANCES REQUIRED.—No State may receive a grant under section 673 unless the Secretary has approved the application and statement of assurances of that State. The Secretary shall not disapprove such an application or statement of assurances unless the Secretary determines, after notice and opportunity for a hearing, that the application or statement of assurances fails to comply with the requirements of this section.

"USES OF FUNDS

"SEC. 679. In addition to using funds provided under section 673 to plan, develop, and implement the statewide system required by section 676, a State may use such funds—

"(1) for direct services for handicapped infants and toddlers that are not otherwise provided from other public or private sources, and

"(2) to expand and improve on services for handicapped infants and toddlers that are otherwise available.

"PROCEDURAL SAFEGUARDS

"SEC. 680. The procedural safeguards required to be included in a statewide system under section 676(b)(12) shall provide, at a minimum, the following:

"(1) The timely administrative resolution of complaints by parents. Any party aggrieved by the findings and decision regarding an administrative complaint shall have the right to bring a civil action with respect to the complaint, which action may be brought in any State court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy. In any action brought under this paragraph, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and, basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate.

"(2) The right to confidentiality of personally identifiable information.

"(3) The opportunity for parents and a guardian to examine records relating to assessment, screening, eligibility determinations, and the development and implementation of the individualized family service plan.

"(4) Procedures to protect the rights of the handicapped infant and toddlers whenever the parents or guardian of the child are not known or unavailable or the child is a ward of the State, including the assignment of an individual (who shall not be an employee of the State agency providing services) to act as a surrogate or the parents or guardian.

"(5) Written prior notice to the parents or guardian of the handicapped infant or toddler whenever the State agency or service provider proposes to initiate or change or refuses to initiate or change the identification, evaluation, placement, or the provision of appropriate early intervention services to the handicapped infant or toddler.

"(6) Procedures designed to assure that the notice required by paragraph (5) fully informs the parents or guardian, in the parents or guardian's native language, unless it clearly is not feasible to do so, of all procedures available pursuant to this section.

"(7) During the pendency of any proceeding or action involving a complaint, unless the State agency and the parents or guardian otherwise agree, the child shall continue to receive the appropriate early intervention services currently being provided or if applying for initial services shall receive the services not in dispute.

"PAYOR OF LAST RESORT

"SEC. 681. (a) NONSUBSTITUTION.—Funds provided under section 673 may not be used to satisfy a financial commitment for services which would have been paid for from another public or private source but for the enactment of this part, except that whenever considered necessary to prevent the delay in the receipt of appropriate early intervention services by the infant or toddler or family in a timely fashion, funds provided under section 673 may be used to pay the provider of services pending reimbursement from the agency which has ultimate responsibility for the payment.

"(b) REDUCTION OF OTHER BENEFITS.—Nothing in this part shall be construed to permit the State to reduce medical or other assistance available or to alter eligibility under title V of the Social Security Act (relating to maternal and child health) or title XIX of the Social Security Act (relating to medicaid for handicapped infants and toddlers) within the State.

"STATE INTERAGENCY COORDINATING COUNCIL

"SEC. 682. (a) ESTABLISHMENT.—(1) Any State which desires to receive financial assistance under section 673 shall establish a State Interagency Coordinating Council composed of 15 members.

"(2) The Council and the chairperson of the Council shall be appointed by the Governor. In making appointments to the Council the Governor shall ensure that the membership of the Council reasonably represents the population of the State.

"(b) COMPOSITION.—The Council shall be composed of—

"(1) at least 3 parents of handicapped infants or toddlers or handicapped children aged 3 through 6, inclusive,

"(2) at least 3 public or private providers of early intervention services,

"(3) at least one representative from the State legislature,

"(4) at least one person involved in personnel preparation, and

"(5) other members representing each of the appropriate agencies involved in the provision of or payment for early intervention services to handicapped infants and toddlers and their families and others selected by the Governor.

"(c) MEETINGS.—The Council shall meet at least quarterly and in such places as it deems necessary. The meetings shall be publicly announced, and, to the extent appropriate, open and accessible to the general public.

"(d) MANAGEMENT AUTHORITY.—Subject to the approval of the Governor, the Council may prepare and approve a budget using funds under this part to hire staff, and obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions under this part.

"(e) FUNCTIONS OF COUNCIL.—The Council shall—

"(1) advise and assist the lead agency designated or established under section 676(b)(9) in the performance of the responsibilities set out in such section, particularly the identification of the sources of fiscal and other support for services for early intervention programs, assignment of financial responsibility to the appropriate agency, and the promotion of the interagency agreements,

"(2) advise and assist the lead agency in the preparation of applications and amendments thereto, and

"(3) prepare and submit an annual report to the Governor and to the Secretary on the status of early intervention programs for handicapped infants and toddlers and their families operated within the State.

"(f) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of a conflict of interest under State law.

"(g) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 1, 1986, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 4 years after the date the State accepts funds under section 673, such Stale shall establish a council that complies in full with this section.

"FEDERAL ADMINISTRATION

"SEC. 683. Sections 616, 617, and 620 shall, to the extent not inconsistent with this part, apply to the program authorized by this part, except that—

"(1) any reference to a State educational agency shall be deemed to be a reference to the State agency established or designated under section 676(b)(9)

"(2) any reference to the education of handicapped children and the education of all handicapped children and the provision of free public education to all handicapped children shall be deemed to be a reference to the provision of services to handicapped infants and toddlers in accordance with this part, and

"(3) any reference to local educational agencies and intermediate educational agencies shall be deemed to be a reference to local service providers under this part.

"ALLOCATION OF FUNDS

"SEC. 684. (a) From the sums appropriated to carry out this part for any fiscal year, the Secretary may reserve 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands in accordance with their respective needs.

"(b)(1) The Secretary shall make payments to the Secretary of the Interior according to the need for such assistance for the provision of early intervention services to handicapped infants and toddlers and their families on reservations serviced by the elementary and secondary schools operated for Indians by the Department of the Interior. The amount of such payment for any fiscal year shall be 1.25 percent of the aggregate of the amount available to all States under this part for that fiscal year.

"(2) The Secretary of the Interior may receive an allotment under paragraph (1) only after submitting to the Secretary an application which meets the requirements of section 678 and which is approved by the Secretary. Action 616 shall apply to any such application.

"(c)(1) For each of the fiscal years 1987 through 1991 from the funds remaining after the reservation and payments under subsections (a) and (b), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the number of infants and toddlers in the State bears to the number of infants and toddlers in all States, except that no State shall receive less than 0.5 percent of such remainder.

"(2) For the purpose of paragraph (1)—

"(A) the terms 'infants' and 'toddlers' mean children from birth to age 2, inclusive, and

"(B) the term 'State' does not include the jurisdictions described in subsection (a).

"(d) If any State elects not to receive its allotment under subsection (c)(1), the Secretary shall reallot, among the remaining States, amounts from such State in accordance with such subsection.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 685. There are authorized to be appropriated to carry out this part $50,000,000 for fiscal year 1987, $75,000,000 for fiscal year 1988, and such sums as may be necessary for each of the 3 succeeding fiscal years.".

(b) STUDY OF SERVICES; COORDINATION OF ACTIONS.—(1) The

Secretary of Education and the Secretary of Health and Human Services shall conduct a joint study of Federal funding sources and services for early intervention programs currently available and shall jointly act to facilitate interagency coordination of Federal resources for such programs and to ensure that funding available to handicapped infants, toddlers, children, and youth from Federal programs, other than programs under the Education of the Handicapped Act, is not being withdrawn or reduced.

(2) Not later than 18 months after the date of the enactment of this Act, the Secretary of Education and the Secretary of Health and Human Services shall submit a joint report to the Congress describing the findings of the study conducted under paragraph (1) and describing the joint action taken under that paragraph.

SEC. 406. EVALUATION.

Section 618 of the Act (20 U.S.C. 1418) is amended to read as follows:

"EVALUATION

"SEC. 618. (a) The Secretary shall directly or by grant, contract, or cooperative agreement, collect data and conduct studies, investigations, and evaluations—

"(1) to assess progress in the implementation of this Act, the impact, and the effectiveness of State and local efforts and efforts by the Secretary of Interior to provide free appropriate public education to all handicapped children and youth and early intervention services to handicapped infants and toddlers, and

"(2) to provide—

"(A) Congress with information relevant to policymaking, and

"(B) Federal, State, and local agencies and the Secretary of Interior with information relevant to program management, administration, and effectiveness with respect to such education and early intervention services.

"(b) In carrying out subsection (a), the Secretary, on at least an annual basis, shall obtain data concerning programs and projects assisted under this Act and under other Federal laws relating to handicapped infants, toddlers, children, and youth, and such additional information, from State and local educational agencies, the Secretary of Interior, and other appropriate sources, as is necessary for the implementation of this Act including—

"(1) the number of handicapped infants, toddlers, children and youth in each State receiving a free appropriate public education or early intervention services (A) in age groups 0-2 and 3-5, and (B) in age groups 6-11, 12-17, and 18-21 by disability category,

"(2) the number of handicapped children and youth in each State who are participating in regular educational programs (consistent with the requirements of sections 612(5)(B) and 614(a)(1)(C)(iv)) by disability category, and the number of handicapped children and youth in separate classes, separate schools or facilities, or public or private residential facilities, or who have been otherwise removed from the regular education environment,

"(3) the number of handicapped children and youth exiting the educational system each year through program completion or otherwise (A) in age group 3-5, and (B) in age groups 6-11, 12-17, and 18-21 by disability category and anticipated services for the next year,

"(4) the amount of Federal, State, and local funds expended in each State specifically for special education and related services and for early intervention services (which may be based upon a sampling of data from State agencies including State and local educational agencies).

"(5) the number and type of personnel that are employed in the provision of special education and related services to handicapped children and youth and early intervention services to handicapped infants and toddlers by disability category served, and the estimated number and type of additional personnel by disability category needed to adequately carry out the policy established by this Act, and

"(6) a description of the special education and related services and early intervention services needed to fully implement this Act throughout each State, including estimates of the number of handicapped infants and toddlers in the 0-2 age group and estimates of the number of handicapped children and youth (A) in age group 3-5 and (B) in age groups 6-11, 12-17, and 18-21 and by disability category.

"(c) The Secretary shall, by grant, contract, or cooperative agreement, provide for evaluation studies to determine the impact of this Act.. Each such evaluation shall include recommendations for improvement of the programs under this Act. The Secretary shall, not later than July 1 of each year, submit to the appropriate committees of each House of the Congress and publish in the Federal Register proposed evaluation priorities for review and comment.

"(d)(1) The Secretary may enter into cooperative agreements with State educational agencies and other State agencies to carry out studies to assess the impact and effectiveness of programs assisted under this Act.

"(2) An agreement under paragraph (1) shall—

"(A) provide for the payment of not to exceed 60 percent of the total cost of studies conducted by a participating State agency to assess the impact and effectiveness of programs assisted under this Act, and

"(B) be developed in consultation with the State Advisory Panel established under this Act, the local educational agencies, and others involved in or concerned with the education of handicapped children and youth and the provision of early intervention services to handicapped infants and toddlers.

"(3) The Secretary shall provide technical assistance to participating State agencies in the implementation of the study design, analysis, and reporting procedures.

"(4) In addition, the Secretary shall disseminate information from such studies to State agencies, regional resources centers, and clearinghouses established by this Act, and, as appropriate, to others involved in, or concerned with, the education of handicapped children and youth and the provision of early intervention services to handicapped infants and toddlers.

"(e)(1) At least one study shall be a longitudinal study of a sample of handicapped students, encompassing the full range of handicapping conditions, examining their educational progress while in special education and their occupational, educational, and independent living status after graduating from secondary school or otherwise leaving special education.

"(2) At least one study shall focus on obtaining and compiling current information available, through State educational agencies and local educational agencies and other service providers, regarding State and local expenditures for educational services for handicapped students (including special education and related services) and shall gather information needed in order to calculate a range of per pupil expenditures by handicapping condition.

"(f)(1) Not later than 120 days after the close of each Fiscal year, the Secretary shall publish and disseminate an annual report on the progress being made toward the provision of a free appropriate public education to all handicapped children and youth and early intervention services for handicapped infants and toddlers. The annual report shall be transmitted to the appropriate committees of each House of Congress and published and disseminated in sufficient quantities to the education community at large and to other interested parties.

"(2) The Secretary shall include in each annual report under paragraph (1)—

"(A) a compilation and analysis of data gathered under subsection (b),

"(B) an index and summary of each evaluation activity and results of studies conducted under subsection (c),

"(C) a description of findings and determinations resulting from monitoring reviews of State implementation of part B of this Act,

"(D) an analysis and evaluation of the participation of handicapped children and youth in vocational education programs and services,

"(E) an analysis and evaluation of the effectiveness of procedures undertaken by each State educational agency, local educational agency, and intermediate educational unit to ensure that handicapped children and youth receive special education and related services in the least restrictive environment commensurate with their needs and to improve programs of instruction for handicapped children and youth in day or residential facilities, and

"(F) any recommendation for change in the provisions of this Act or any other Federal law providing support for the education of handicapped children and youth.

"(3) In the annual report under paragraph (1) for fiscal year 1985 which is published in 1986 and for every third year thereafter, the Secretary shall include in the annual report—

"(A) an index of all current projects funded under parts C through G of this title, and

"(B) data reported under sections 621, 622, 623, 627, 634, 641, and 661.

"(4) In the annual report under paragraph (1) for fiscal year 1988 which is published in 1989, the Secretary shall include special sections addressing the provision of a free appropriate public education to handicapped infants, toddlers, children, and youth in rural areas and to handicapped migrants, handicapped Indians (particularly programs operated under section 611(f)), handicapped Native Hawaiian, and other native Pacific basin children and youth, handicapped infants, toddlers, children and youth of limited English proficiency.

"(5) Beginning in 1986, in consultation with the National Council for the Handicapped and the Bureau of Indian Affairs Advisory Committee for Exceptional Children, a description of the status of early intervention services for handicapped infants and toddlers from birth through age 2, inclusive, and special education and related services to handicapped children from 3 through 5 years of age (including those receiving services through Head Start, Developmental Disabilities Programs, Crippled Children's Services, Mental Health/Mental Retardation Agency, and State child-development centers and private agencies under contract with local schools).

"(g) There are authorized to be appropriated $3,800,000 for fiscal year 1987, $4,000,000 for fiscal year 1988, and $4,200,000 for fiscal year 1989 to carry out this section.".

P.L. 99-272—CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985

SEC. 9501. SERVICES FOR PREGNANT WOMEN.

(a) EXPANDED COVERAGE.—Section 1905(n)(1) of the Social Security Act (42 U.S.C. 1396d(n)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by striking out "and" at the end of subparagraph (B) and inserting in lieu thereof "or"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) otherwise meets the income and resources requirements of a State plan under part A of title IV; and".

(b) OPTIONAL EXPANSION OF PREGNANCY-RELATED SERVICES.—Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended, in the matter after subparagraph (D) thereof—

(1) by striking out "and" before "(IV)" and inserting in lieu thereof a comma; and

(2) by inserting before the semicolon at the end thereof the following: ", and (V) the making available to pregnant women covered under the plan of services relating to pregnancy (including prenatal, delivery, and postpartum services) or to any other condition which may complicate pregnancy shall not, by reason of this paragraph (10), require the making available of such services, or the making available of such services of the same amount, duration, and scope, to any other individuals, provided such services are made available (in the same amount, duration, and scope) to all pregnant women covered under the State plan".

(c) POSTPARTUM ELIGIBILITY FOR PREGNANT WOMEN.—Section 1902(e) of such Act (42 U.S.C. 1396b(e)) is amended by adding at the end the following new paragraph:

"(5) A woman who, while pregnant, is eligible for, has applied for, and has received medical assistance under the State plan, shall continue to be eligible under the plan, as though she were pregnant, for all pregnancy-related and postpartum medical assistance under the plan, until the end of the 60-day period beginning on the last day of her pregnancy.".

(d) EFFECTIVE DATES.—

(1) EXPANDED COVERAGE.—(A) The amendments made by subsection (a) apply (except as provided under subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after the July 1, 1986, without regard to whether or not final regulations to carry out the amendments have been promulgated by that date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirement imposed by the amendments made by subsection (a), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(2) OPTIONAL SERVICES.—The amendments made by subsection (b) shall become effective on the date of the enactment of this Act.

(3) CONTINUED COVERAGE.—The amendment made by subsection (c) shall apply to medical assistance furnished to a woman on or after the date of the enactment of this Act.

SEC. 9502. MODIFICATIONS OF WAIVER PROVISIONS FOR HOME AND COMMUNITY-BASED SERVICES.

(a) EXPLICIT INCLUSION OF CERTAIN PREVOCATIONAL AND EDUCATIONAL SERVICES.—Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)) is amended by adding at the end thereof the following new paragraph:

"(5) For purposes of paragraph (4)(B), the term 'habilitation services', with respect to individuals who receive such services after discharge from a skilled nursing facility or intermediate care facility—

"(A) means services designed to assist individuals in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community based settings; and

"(B) includes (except as provided in subparagraph (C)) prevocational, educational, and supported employment services; but

"(C) does not include—

"(i) special education and related services (as defined in section 602(16) and (17) of the Education of the Handicapped Act (20 U.S.C. 1401(16), (17)) which otherwise are available to the individual through a local educational agency; and

"(ii) vocational rehabilitation services which otherwise are available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730).".

(b) PERMITTING HOSPITAL LEVEL OF CARE FOR CERTAIN PARTICIPANTS.—(1) Section 1915(c)(1) of such Act (42 U.S.C. 1396n(c)(1)) is amended by inserting "or but for the provision of such services the individuals would continue to receive inpatient hospital services, skilled nursing facility services, or intermediate care facility services because they are dependent on ventilator support the cost of which is reimbursed under the State plan" before the period at the end thereof.

(2) Section 1915(c)(2)(C) of such Act (42 U.S.C. 1396n(c)(2)(C)) is amended—

(A) by inserting "hospital or" after "provided in a"; and

(B) by inserting "inpatient hospital services or" after "the provision of".

(c) PROHIBITING IMPOSITION OF CERTAIN REGULATORY LIMITS.—Section 1915(c) of such Act (42 U.S.C. 1396n(c)) as amended by subsection (a), is further amended—

(1) in paragraph (2)(D), by inserting "100 percent of" after "does not exceed"; and

(2) by adding at the end thereof the following new paragraph:

"(6) The Secretary may not require, as a condition of approval of a waiver under this section under paragraph (2)(D), that the actual total expenditures for home and community-based services under the waiver (and a claim for Federal financial participation in expenditures for the services) cannot exceed the approved estimates for these services. The Secretary may not deny Federal financial payment with respect to services under such a waiver on the ground that, in order to comply with paragraph (2)(D), a State has failed to comply with such a requirement.".

(d) COMPUTATION OF EXPENDITURES FOR CERTAIN DISABLED PATIENTS.—Section 1915(c) of such Act (42 U.S.C. 1396n(c)), as amended by subsection (c), is further amended by adding at the end thereof the following new paragraph:

"(7) In making estimates under paragraph (2)(D) in the case of a waiver which applies only to physically disabled individuals who are inpatients in skilled nursing or intermediate care facilities, the State may determine the average per capita expenditure which would have been made in a fiscal year for those individuals under the State plan separately from the expenditure for other individuals who are inpatients of those facilities.".

(e) PERMITTING FLEXIBILITY IN ESTABLISHING MAINTENANCE INCOME STANDARDS.—Section 1915(c)(3) of such Act (42 U.S.C. 1396n(c)(3)) is amended by adding at the end the following new sentence: "A waiver may provide, with respect to post-eligibility treatment of income of all individuals receiving services under that waiver, that the maximum amount of the individual's income which may be disregarded for any month for the maintenance needs of the individual may be an amount greater than the maximum allowed for that purpose under regulations in effect on July 1, 1985.".

(f) WAIVER EXTENSIONS.—The Secretary of Health and Human Services shall extend, upon request of the State, any waiver under section 1915(c) of the Social Security Act which expires on or after

September 30, 1985, and before September 30, 1986. Such extension shall be for a period of not less than one year nor more than five years, subject to section 1915(e)(1) of such Act.

(g) WAIVER RENEWALS.—Section 1915(c)(3) of the Social Security Act (42 U.S.C. 1396n(c)(3)) is amended—

(1) by striking out "additional three-year periods" and inserting in lieu thereof "additional five-year periods"; and

(2) by striking out "previous three-year period" and inserting in lieu thereof "previous waiver period".

(h) COORDINATED SERVICES BETWEEN MCH PROGRAM AND HOME AND COMMUNITY-BASED SERVICE PROGRAMS.—Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), as amended by subsection (d) of this section, is further amended by adding at the end thereof the following new paragraph:

"(8) The State agency administering the plan under this title may, whenever appropriate, enter into cooperative arrangements with the State agency responsible for administering the program for children with special health care needs under title V in order to assure improved access to coordinated services to meet the needs of such children.".

(i) SUBSTITUTION OF PARTICIPANTS.—(1) Section 1915(c) of the Social Security Act (42 U.S.C. 1396n(c)), as amended by subsection (h) of this section, is further amended by adding at the end thereof the following new paragraph:

"(9) In the case of any waiver under this subsection which contains a limit on the number of individuals who shall receive home or community-based services, the State may substitute additional individuals to receive such services to replace any individuals who die or become ineligible for services under the State plan.".

(j) EFFECTIVE DATES.—

(1) HABILITATION SERVICES.— The amendment made by subsection (a) shall be effective for services furnished on or after the date of the enactment of this Act.

(2) HOSPITALIZED PATIENTS.—The amendments made by subsection (b) shall be effective for services furnished on or after October 1, 1985.

(3) PROHIBITION OF REGULATORY LIMITS AND TREATMENT OF CERTAIN PHYSICALLY DISABLED INDIVIDUALS.—The amendments made by subsections (c) and (d) shall apply to applications for waivers (or renewals thereof) filed before, on, or after, the date of the enactment of this Act and for services furnished on or after August 13, 1981.

(4) INCOME STANDARDS.—The amendment made by subsection (e) shall apply to waivers (or renewals thereof) approved on or after the date of the enactment of this Act.

(5) WAIVER EXTENSIONS.—Subsection (f) shall apply to waivers expiring on or after September 30, 1985, and before September 30, 1986.

(6) WAIVER RENEWALS.—The amendments made by subsection (g) shall become effective on September 30, 1986.

(7) COORDINATED SERVICES AND SUBSTITUTION OF PARTICIPANTS.—The amendments made by subsections (h) and (i) shall become effective on the date of the enactment of this Act.

SEC. 9511. OPTIONAL COVERAGE OF CHILDREN.

(a) STATE OPTION.—Section 1905(n)(2) of the Social Security Act (42 U.S.C. 1396d(h)(2)) is amended by inserting "(or such earlier date as the State may designate)" after "September 30, 1983".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to services furnished on or after April 1, 1986.

SEC. 9520. TASK FORCE ON TECHNOLOGY-DEPENDENT CHILDREN.

(a) APPOINTMENT OF TASK FORCE.—The Secretary of Health and Human Services, within six months after the date of the enactment of this Act, shall establish a task force concerning alternatives to institutional care for technology-dependent children (as defined in subsection (e)).

(b) MEMBERSHIP.—The task force shall include representatives of Federal and State agencies with responsibilities relating to child health, health insurers, large employers (including those that self-insure for health care costs), providers of health care to technology-dependent children, and parents of technology-dependent children.

(c) FUNCTIONS OF TASK FORCE.—The task force shall—

(1) identify barriers that prevent the provision of appropriate care in a home or community setting to meet the special needs of technology-dependent children; and

(2) recommend changes in the provision and financing of health care in private and public health care programs (including appropriate joint public-private initiatives) so as to provide home and community-based alternatives to the institutionalization of technology-dependent children.

(d) REPORT.—The task force shall make a final report to the Secretary and to the Congress on its activities not later than two years after the date of the enactment of this Act.

(e) DEFINITION.—In this section, the term "technology-dependent child" means a child who has a chronic illness which makes the child dependent upon the continuing use of medical care technology (such as a ventilator).

SEC. 9527. CHILDREN WITH SPECIAL HEALTH CARE NEEDS.

(a) Section 501(a)(4) of the Social Security Act (42 U.S.C. 701(a)(4)) is amended by striking out "children who are crippled or who are suffering from conditions leading to crippling" and inserting in lieu thereof "children who are 'children with special health care needs' or who are suffering from conditions leading to such status".

(b) Section 501(a) of such Act is amended by striking out "crippled children" in the matter following paragraph (4) and inserting in lieu thereof "children with special health care needs".

(c) Section 501(b)(1)(A) of such Act is amended by striking out "crippled children's services" and inserting in lieu thereof "services for children with special health care needs".

(d) Section 502(a)(2)(B) of such Act is amended—

(1) by striking out "crippled children's programs" and inserting in lieu thereof "programs for children with special health care needs"; and

(2) by striking out "crippled children's services" and inserting in lieu thereof "services for children with special health care needs".

(e) Sections 504(b)(1) and 509(b) of such Act are each amended by striking out "crippled children" and inserting in lieu thereof "children with special health care needs".

P.L. 98-369—DEFICIT REDUCTION ACT OF 1984

MEDICAID COVERAGE FOR PREGNANT WOMEN AND CHILDREN

SEC. 2361. (a) Clause (i) of section 1902(a)(10)(A) of the Social Security Act is amended to read as follows:

"(i) all individuals—

"(I) who are receiving aid or assistance under any plan of the State approved under title I, X XIV, or XVI, or part A or part E of title IV (including individuals eligible under this title by reason of section 402(a)(37), or considered by the State to be receiving such aid as authorized under section 414(g)),

"(II) with respect to whom supplemental security income benefits are being paid under title XVI, or

"(III) who are qualified pregnant women or children as defined in section 1905(n);".

(b) Section 1905 of such Act is amended by adding at the end thereof the following new subsection:

"(n) The term 'qualified pregnant woman or child' means—

"(1) a pregnant woman who—

"(A) would be eligible for aid to families with dependent children under part A of title IV (or would be eligible for such aid if coverage under the State plan under part A of title IV included aid to families with dependent children of unemployed parents pursuant to section 407) if her child had been born and was living with her in the month such aid would be paid, and such pregnancy has been medically verified; or

"(B) is a member of a family which would be eligible for aid under the State plan under part A of title IV pursuant to section 407 if the plan required the payment of aid pursuant to such section; and

"(2) a child who is under 5 years of age, who was born after September 30, 1983, and who meets the income and resources requirements of the State plan under part A of title IV.".

(c) Section 406(g) of such Act is amended by striking out "(1)" after "(g)", by striking out paragraph (2), and by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2).

(d)(1) Except as provided in paragraph (2), the amendments made by this section shall apply to calendar quarters beginning on or after October 1, 1984, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirements imposed by the

amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

CLARIFICATION OF MEDICAID ENTITLEMENT FOR CERTAIN NEWBORNS

SEC. 2362. (a) Section 1902(e) of the Social Security Act is amended by adding at the end the following new paragraph:

"(4) A child born to a woman eligible for and receiving medical assistance under a State plan on the date of the child's birth shall be deemed to have applied for medical assistance and to have been found eligible for such assistance under such plan on the date of such birth and to remain eligible for such assistance for a period of one year so long as the child is a member of the woman's household and the woman remains eligible for such assistance.".

(b) The amendment made by subsection (a) shall apply to children born on or after October 1, 1984.

INCREASE IN AUTHORIZATION FOR MATERNAL AND CHILD HEALTH BLOCK GRANT

SEC. 2372. (a) Section 501(a) of the Social Security Act is amended by striking out "$373,000,000 for fiscal year 1982 and for each fiscal year thereafter" and inserting in lieu thereof "$478,000,000 for fiscal year 1984 and each fiscal year thereafter".

(b) The amendment made by subsection (a) shall be effective for fiscal years beginning on or after October 1, 1983.

P.L. 97-248—TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

MEDICAID COVERAGE OF HOME CARE FOR CERTAIN DISABLED CHILDREN

SEC. 134. (a) Section 1902(e) of the Social Security Act is amended by adding at the end the following new paragraph:

"(3) At the option of the State, any individual who—

"(A) is 18 years of age or younger and qualifies as a disabled individual under section 1614(a);

"(B) with respect to whom there has been a determination by the State that—

"(i) the individual requires a level of care provided in a hospital, skilled nursing facility, or intermediate care facility,

"(ii) it is appropriate to provide such care for the individual outside such an institution, and

"(iii) the estimated amount which would be expended for medical assistance for the individual for such care outside an institution is not greater than the estimated amount which would otherwise be expended for medical assistance for the individual within an appropriate institution; and

"(C) if the individual were in a medical institution, would be eligible to have a supplemental security income (or State supplemental) payment made with respect to him under title XVI, shall be deemed, for purposes of this title only, to be an individual with respect to whom a supplemental security income payment, or State supplemental payment, respectively, is being paid under title XVI.".

(b) The amendment made by subsection (a) shall become effective on October 1, 1982.

P.L. 97-35—OMNIBUS BUDGET RECONCILIATION ACT OF 1981

TITLE XXI, SUBTITLE C—PROVISIONS RELATING TO MEDICAID

INAPPLICABILITY AND WAIVER OF FREEDOM-OF-CHOICE AND OTHER STATE PLAN REQUIREMENTS

SEC. 2175. (a) Paragraph (23) of section 1902(a) of the Social Security Act is amended—

(1) by inserting "except as provided in section 1915 and" after "(23)", and

(2) by striking out all that follows the first semicolon.

(b) Title XIX of the Social Security Act is amended by adding at the end the following new section:

"PROVISIONS RESPECTING INAPPLICABILITY AND WAIVER OF CERTAIN REQUIREMENTS OF THIS TITLE

"SEC. 1915. (a) A State shall not be deemed to be out of compliance with the requirements of paragraphs (1), (10), or (23) of section 1902(a) solely by reason of the fact that the State (or any political subdivision thereof)—

"(1) has entered into—

"(A) a contract with an organization which has agreed to provide care and services in addition to those offered under the State plan to individuals eligible for medical assistance who reside in the geographic area served by such organization and who elect to obtain such care and services from such organization, or by reason of the fact that the plan provides for payment for rural health clinic services only if those services are provided by a rural health clinic; or

"(B) arrangements through a competitive bidding process or otherwise for the purchase of laboratory services referred to in section 1905(a)(3) or medical devices if the Secretary has found that—

"(i) adequate services or devices will be available under such arrangements, and

"(ii) any such laboratory services will be provided only through laboratories—

"(I) which meet the applicable requirements of section 1861(e)(9) or paragraphs (11) and (12) of section 1861(s), and such additional requirements as the Secretary may require, and

"(II) no more than 75 percent of whose charges for such services are for services provided to individuals who are entitled to benefits under this title or under part A or part B of title XVIII; or

"(2) restricts—

"(A) for a reasonable period of time the provider or providers from which an individual (eligible for medical assistance for items or services under the State plan) can receive such items or services, if the State has found, after notice and opportunity for a hearing (in accordance with procedures established by the State) that the individual has utilized such items or services at a Frequency or amount not medically necessary (as determined in accordance with utilization guidelines established by the State), or

"(B) (through suspension or otherwise) for a reasonable period of time the participation of a provider of items or services under the State plan, if the State has found, after notice and opportunity for a hearing (in accordance with procedures established by the State), that the provider has (in a significant number or proportion of cases) provided such items or services either (i) at a frequency or amount not medically necessary (as determined in accordance with utilization guidelines established by the State), or (ii) of a quality which does not meet professionally recognized standards of health care,

if, under such restriction, individuals eligible for medical assistance for such services have reasonable access (taking into account geographic location and reasonable travel time) to such services of adequate quality.

"(b) The Secretary, to the extent he finds it to be cost-effective and efficient and not inconsistent with the purposes of this title, may waive such requirements of section 1902 and section 1903(m) as may be necessary for a State—

"(1) to implement a case-management system or a specialty physician services arrangement which restricts the provider from (or through) whom an individual (eligible for medical assistance under this title) can obtain primary care services (other than in emergency circumstances), if such restriction does not substantially impair access to such services of adequate quality where medically necessary,

"(2) to allow a locality to act as a central broker in assisting individuals (eligible for medical assistance under this title) in selecting among competing health care plans, if such restriction does not substantially impair access to services of adequate quality where medically necessary,

"(3) to share (through provision of additional services) with recipients of medical assistance under the State plan cost savings resulting from use by the recipient of more cost-effective medical care, and

"(4) to restrict the provider from (or through) whom an individual (eligible for medical assistance under this title) can obtain services (other than in emergency circumstances) to providers or practitioners who undertake to provide such services and who meet, accept, and comply with the reimbursement, quality, and utilization standards under the State plan, which standards are consistent with access, quality, and efficient and economic provision of covered care and services, if such restriction does not discriminate among classes of providers on grounds unrelated to their demonstrated effectiveness and efficiency in providing those services.

"(c) No waiver under this section may extend over a period of longer than two years unless the State requests continuation of such waiver, and such request shall be deemed granted unless the Secretary denies such request in writing within 90 days after the date of its submission to the Secretary.

"(d)(1) The Secretary shall monitor the implementation of waivers granted under this section to assure that the requirements for such waiver are being met and shall, after notice and opportunity for a hearing, terminate any such waiver where he finds noncompliance has occurred.

"(2) The Secretary shall report, not later than September 30, 1984, to Congress on waivers granted under this section.".

(d)(1) Section 1902(a)(9) of such Act is amended—

(A) by striking out "and" at the end of subparagraph (A),

(B) by striking out the semicolon at the end of subparagraph (B) and inserting in lieu thereof ", and", and

(C) by adding after subparagraph (B) the following new subparagraph:

"(C) that any laboratory services paid for under such plan must be provided by a laboratory which meets the applicable requirements of section 1861(e)(9) or paragraphs (11) and (12) of section 1861(s), or, in the case of a laboratory which is in a rural health clinic, of section 1861(aa)(2)(G);"

(2)(A) The amendments made by paragraph (1) shall (except as provided under subparagraph (B)) be effective with respect to payments under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1981.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the additional requirement imposed by the amendment made by paragraph (1)(C), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet this additional requirement before the first day of the first calendar year beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

WAIVER TO PROVIDE HOME AND COMMUNITY-BASED SERVICES FOR CERTAIN INDIVIDUALS

SEC. 2176. Section 1915 of the Social Security Act (added by section 2175 of this subtitle) is amended—

(1) by inserting "(other than a waiver under subsection (c))" in subsection (c) after "No waiver under this section", and

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c)(1) The Secretary may by waiver provide that a State plan approved under this part may include as 'medical assistance' under such plan home or community-based services (other than room and board) approved by the Secretary which are provided pursuant to a written plan of care to individuals with respect to whom there has been a determination that but for the provision of such services the individuals would require the level of care provided in a skilled nursing facility or intermediate care facility the cost of which could be reimbursed under the State plan.

"(2) A waiver shall not be granted under this subsection unless the State provides assurances satisfactory to the Secretary that—

"(A) necessary safeguards (including adequate standards for provider participation) have been taken to protect the health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services;

"(B) the State will provide, with respect to individuals who are entitled to medical assistance for skilled nursing facility or intermediate care facility services under the State plan and who may require such services, for an evaluation of the need for such services;

"(C) such individuals who are determined to be likely to require the level of care provided in a skilled nursing facility or intermediate care facility are informed of the feasible alternatives, if available under the waiver, at the choice of such individuals, to the provision of skilled nursing facility or intermediate care facility services;

"(D) under such waiver the average per capita expenditure estimated by the State in any fiscal year for medical assistance provided with respect to such individuals does not exceed the average per capita expenditure that the State reasonably estimates would have been made in that fiscal year for expenditures under the State plan for such individuals if the waiver had not been granted; and

"(E) the State will provide to the Secretary annually, consistent with a data collection plan designed by the Secretary, information on the impact of the waiver granted under this subsection on the type and amount of medical assistance provided under the State plan and on the health and welfare of recipients.

"(3) A waiver granted under this subsection may include a waiver of the requirements of subsection (a)(1) (relating to statewideness) and subsection (a)(10) of section 1902. A waiver under this subsection shall be for an initial term of three years and, upon the request of a State, shall be extended for additional three-year periods unless the Secretary determines that for the previous three-year period the assurances provided under paragraph (2) have not been met.

"(4) A waiver granted under this section may, consistent with paragraph (2)—

"(A) limit the individuals provided benefits under such waiver to individuals with respect to whom the State has determined that there is a reasonable expectation that the amount of medical assistance provided with respect to the individual under such waiver will not exceed the amount of such medical assistance provided for such individual if the waiver did not apply, and

"(B) provide medical assistance to individuals (to the extent consistent with written plans of care, which are subject to the approval of the State) for case management services, homemaker/home health aide services and personal care services adult day health services, habilitation services, respite care, and such other services requested by the State as the Secretary may approve.".

TITLE XXI, SUBTITLE D—MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT

SHORT TITLE OF SUBTITLE

SEC. 2191. This subtitle may be cited as the "Maternal and Child Health Services Block Grant Act".

MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT

SEC. 2192. (a) Title V of the Social Security Act is amended to read as follows:

"TITLE V—MATERNAL AND CHILD HEALTH SERVICES BLOCK GRANT

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 501. (a) For the purpose of enabling each State—

"(1) to assure mothers and children (in particular those with low income or with limited availability of health services) access to quality maternal and child health services,

"(2) to reduce infant mortality and the incidence of preventable diseases and handicapping conditions among children, to reduce the need for inpatient and long-term care services, to increase the number of children (especially preschool children) appropriately immunized against disease and the number of low income children receiving health assessments and follow-up diagnostic and treatment services, and otherwise to promote the health of mothers and children (especially by providing preventive and primary care services for low income children, and prenatal, delivery, and postpartum care for low income mothers),

"(3) to provide rehabilitation services for blind and disabled individuals under the age of 16 receiving benefits under title XVI of this Act, and

"(4) to provide services for locating, and for medical, surgical, corrective, and other services, and care for, and facilities for diagnosis, hospitalization, and aftercare for, children who are crippled or who are suffering from conditions leading to crippling;

and for the purpose of enabling the Secretary to provide for special projects of regional and national significance, research and training with respect to maternal and child health and crippled children, for genetic disease testing, counseling, and information development and dissemination programs and for grants relating to hemophilia (without regard to age), there are authorized to be appropriated $373,000,000 for fiscal year 1982 and for each fiscal year thereafter.

"(b) For purposes of this title:

"(1) The term 'consolidated health programs' means the programs administered under the provisions of—

"(A) this title (relating to maternal and child health and crippled children's services)

"(B) section 1615(c) of this Act (relating to supplemental security income for disabled children)

"(C) sections 316 (relating to lead-based paint poisoning prevention programs), 1101 (relating to genetic disease programs), 1121 (relating to sudden infant death syndrome programs) and 1131 (relating to hemophilia treatment centers) of the Public Health Service Act, and

"(D) title IV of the Health Services and Centers Amendments of 1978 (Public Law 95-626, relating to adolescent pregnancy grants) as such provisions were in effect before the date of the enactment of the Maternal and Child Health Services Block Grant Act.

"(2) The term 'low income' means, with respect to an individual or family, such an individual or family with an income determined to be below the nonfarm income official poverty line defined by the Office of Management and Budget and revised annually in accordance with section 624 of the Economic Opportunity Act of 1964.

"ALLOTMENTS TO STATES AND FEDERAL SET-ASIDE

"SEC. 502. (a)(1) Of the amount appropriated under section 501(a), the Secretary shall retain an amount equal to 15 percent thereof in the case of fiscal year 1982, and an amount equal to not less than 10 nor more than 15, percent thereof in the case of each fiscal year thereafter, for the purpose of carrying out (through grants, contracts, or otherwise) special projects of regional and national significance, training, and research and for the funding of genetic disease testing, counseling, and information development and dissemination programs and of comprehensive hemophilia diagnostic and treatment centers. The authority of the Secretary to enter into any contracts under this title is effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

"(2) For purposes of paragraph (1)—

"(A) amounts retained by the Secretary for training shall be used to make grants to public or nonprofit private institutions of higher learning for training personnel for health care and related services for mothers and children; and

"(B) amounts retained by the Secretary for research shall be used to make grants to, contracts with, or jointly financed cooperative agreements with, public or nonprofit institutions of higher learning and public or nonprofit private agencies and organizations engaged in research or in maternal and child health or crippled children's programs for research projects relating to maternal and child health services or crippled children's services which show promise of substantial contribution to the advancement thereof.

"(3) No funds may be made available by the Secretary under this subsection unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain and be accompanied by such information as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under this title.

"(b) From the remaining amounts appropriated under section 501(a) for any fiscal year, the Secretary shall allot to each State which has transmitted a description of intended activities and statement of assurances for the fiscal year under section 505, an amount determined as follows:

"(1) The Secretary shall determine, for each State—

"(A)(i) the amount provided or allotted by the Secretary to the State and to entities in the State under the provisions of the consolidated health programs (as defined in section 501(b)(1)), other than for any of the projects or programs described in subsection (a), from appropriations for fiscal year 1981,

"(ii) the proportion that such amount for that State bears to the total of such amounts for all the States, and

"(B)(i) the number of low income children in the State, and

"(ii) the proportion that such number of children for that State bears to the total of such numbers of children for all the States.

"(2)(A) For each of fiscal years 1982 and 1983, each such State shall be allotted for that fiscal year an amount equal to the State's proportion (determined under paragraph (1)(A)(ii)) of the amounts available for allotment to all the States under this subsection for that fiscal year.

"(B) For fiscal years beginning with fiscal year 1984, if the amount available for allotment under this subsection for that fiscal year—

"(i) does not exceed the amount available under this subsection for allotment for fiscal year 1983, each such State shall be allotted for that fiscal year an amount equal to the State's proportion (determined under paragraph (1)(A)(ii)) of the amounts available for allotment to all the States under this subsection for that fiscal year, or

"(ii) exceeds the amounts available under this subsection for allotment for fiscal year 1983, each such State shall be allotted for that fiscal year an amount equal to the sum of—

"(I) the amount of the allotment to the State under this subsection in fiscal year 1983 (without regard to paragraph (3) of this subsection), and

"(II) the State's proportion (determined under paragraph (1)(B)(ii)) of the amount by which the allotment available under this subsection for all the States for that fiscal year exceeds the amount that was available under this subsection for allotment for all the States for fiscal year 1983.

"(3)(A) To the extent that all the funds appropriated under this title for a fiscal year are not otherwise allotted to States either because all the States have not qualified for such allotments under section 505 for the fiscal year or because some States have indicated in their descriptions of activities under section 505 that they do not intend to use the full amount of such allotments, such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this subparagraph.

"(B) To the extent that all the funds appropriated under this title for a fiscal year are not otherwise allotted to States because some State allotments are offset under section 506(b)(2), such excess shall be allotted among the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this subparagraph.

"PAYMENTS TO STATES

"SEC. 503. (a) From the sums appropriated therefor and the allotments available under section 502(b), the Secretary shall make payments as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213) to each State provided such an allotment under section 502(b), for each quarter, of an amount equal to four-sevenths of the total of the sums expended by the State during such quarter in carrying out the provisions of this title.

"(b) Any amount payable to a State under this title from allotments for a fiscal year which remains unobligated at the end of such year shall remain available to such State for obligation during the next fiscal year. No payment may be made to a State under this title from allotments for a fiscal year for expenditures made after the following fiscal year.

"(c) The Secretary, at the request of a State, may reduce the amount of payments under subsection (a) by—

"(1) the fair market value of any supplies or equipment furnished the State, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 505 on a temporary basis. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

"USE OF ALLOTMENT FUNDS

"SEC. 504. (a) Except as otherwise provided under this section, a State may use amounts paid to it under section 503 for the provision of health services and related activities (including planning, administration, education, and evaluation) consistent with its description of intended expenditures and statement of assurances transmitted under section 505.

"(b) Amounts described in subsection (a) may not be used for—

"(1) inpatient services, other than inpatient services provided to crippled children or to high-risk pregnant women and infants and such other inpatient services as the Secretary may approve;

"(2) cash payments to intended recipients of health services;

"(3) the purchase or improvement of land, the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility, or the purchase of major medical equipment;

"(4) satisfying any requirement for the expenditure of nonfederal funds as a condition for the receipt of Federal funds, or

"(5) providing funds for research or training to any entity other than a public or nonprofit private entity.

The Secretary may waive the limitation contained in paragraph (3) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this title.

"(c) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, and administering programs funded under this title.

"DESCRIPTION OF INTENDED EXPENDITURES AND STATEMENT OF ASSURANCES

"SEC. 505. In order to be entitled to payments for allotments under section 502 for a fiscal year, a State must prepare and transmit to the Secretary—

"(1) a report describing the intended use of payments the State is to receive under this title for the fiscal year, including (A) a description of those populations, areas, and localities in the State which the State has identified as needing maternal and child health services, (B) a statement of goals and objectives for meeting those needs, (C) information on the types of services to be provided and the categories or characteristics of individuals to be served, and (D) data the State intends to collect respecting activities conducted with such payments; and

"(2) a statement of assurances that represents to the Secretary that—

"(A) the State will provide a fair method (as determined by the State) for allocating funds allotted to the State under this title among such individuals, areas, and localities identified under paragraph (1)(A) as needing maternal and child health services, and the State will identify and apply guidelines for the appropriate frequency and content of, and appropriate referral and followup with respect to, health care assessments and services financially assisted by the State under this title and methods for assuring quality assessments and services;

"(B) funds allotted to the State under this title will only be used, consistent with section 508, to carry out the purposes of this title or to continue activities previously conducted under the consolidated health programs (described in section 502(b)(1));

"(C) the State will use—

"(i) a substantial proportion of the sums expended by the State for carrying out this title for the provision of health services to mothers and children, with special consideration given (where appropriate) to the continuation of the funding of special projects in the State previously funded under this title (as in effect before the date of the enactment of the Maternal and Child Health Services Block Grant Act), and

"(ii) a reasonable proportion (based upon the State's previous use of funds under this title) of such sums to carry out the purposes described in paragraphs (1) through (3) of section 501(a)

"(D) if the State imposes any charges for the provision of health services assisted by the State under this title, such charges (i) will be pursuant to a public schedule of charges, (ii) will not be imposed with respect to services provided to low income mothers or children, and (iii) will be adjusted to reflect the income, resources, and family size of the individual provided the services; and

"(E) the State agency (or agencies) administering the State's program under this title will participate—

"(i) in the coordination of activities between such program and the early and periodic screening, diagnosis, and treatment program under title XIX, to ensure that such programs are carried out without duplication of effort,

"(ii) in the arrangement and carrying out of coordination agreements described in section 1902(a)(11) (relating to coordination of care and services available under this title and title XIX), and

"(iii) in the coordination of activities within the State with programs carried out under this title and related Federal grant programs (including supplemental food programs for mothers, infants, and children, related education programs, and other health, developmental disability, and family planning programs).

The description and statement shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and statement and after its transmittal. The description and statement shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in any element of such description or statement and any revision shall be subject to the requirements of the preceding sentence.

"REPORTS AND AUDITS

"SEC. 506. (a)(1) Each State shall prepare and submit to the Secretary annual reports on its activities under this title. In order properly to evaluate and to compare the performance of different States assisted under this title and to assure the proper expenditure of funds under this title, such reports shall be in such form and contain such information as the Secretary determines (after consultation with the States and the Comptroller General) to be necessary (A) to secure an accurate description of those activities, (B) to secure a complete record of the purposes for which funds were spent, of the recipients of such funds, and of the progress made toward achieving the purposes of this title, and (C) to determine the extent to which funds were expended consistent with the State's description and statement transmitted under section 505. Copies of the report shall be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

"(2) The Secretary shall annually report to the Congress on activities funded under section 502(a) and shall provide for transmittal of a copy of such report to each State.

"(b)(1) Each State shall, not less often than once every two years, audit its expenditures from amounts received under this title. Such State audits shall be conducted by an entity independent of the State agency administering a program funded under this title in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions and generally accepted auditing standards. Within 30 days following the completion of each audit report, the State shall submit a copy of that audit report to the Secretary.

"(2) Each State shall repay to the United States amounts found by the Secretary, after notice and opportunity for a hearing to the State, not to have been expended in accordance with this title and, if such repayment is not made, the Secretary may offset such amounts against the amount of any allotment to which the State is or may become entitled under this title or may otherwise recover such amounts.

"(3) The Secretary may, after notice and opportunity for a hearing, withhold payment of funds to any State which is not using its allotment under this title in accordance with this title.

The Secretary may withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

"(c) The State shall make copies of the reports and audits required by this section available for public inspection within the State.

"(d)(1) For the purpose of evaluating and reviewing the block grant established under this title, the Secretary and the Comptroller General shall have access to any books, accounts, records, correspondence, or other documents that are related to such block grant, and that are in the possession, custody, or control of States, political subdivisions thereof, or any of their grantees.

"(2) In conjunction with an evaluation or review under paragraph (1), no State or political subdivision thereof (or grantee of either) shall be required to create or prepare new records to comply with paragraph (1).

"(3) For other provisions relating to deposit, accounting, reports and auditing with respect to Federal grants to States, see section 202 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4212).

"CRIMINAL PENALTY FOR FALSE STATEMENTS

"SEC. 507. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payment may be made by a State from funds allotted to the State under this title, or

"(2) having knowledge of the occurrence of any event affecting his initial or continued right to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized,

shall be fined not more than $25,000 or imprisoned for not more than five years, or both.

"(b) For civil monetary penalties for certain submissions of false claims, see section 1128A of this Act.

"NONDISCRIMINATION

"SEC. 508. (a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this title are considered to be programs and activities receiving Federal financial assistance.

"(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this title.

"(b) Whenever the Secretary finds that a State, or an entity that has received a payment from an allotment to a State under section 502(b), has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

"(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

"(3) take such other action as may be provided by law.

"(c) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever he has reason to believe that the entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district Court of the United States for such relief as may be appropriate, including injunctive relief.

"ADMINISTRATION OF TITLE AND STATE PROGRAMS

"SEC. 509. (a) The Secretary shall designate an identifiable administrative unit with expertise in maternal and child health within the Department of Health and Human Services, which unit shall be responsible for—

"(1) the Federal program described in section 502(a);

"(2) promoting coordination at the Federal level of the activities authorized under this title and under title XIX of this Act, especially early and periodic screening, diagnosis and treatment, related activities funded by the Departments of Agriculture and Education, and under health block grants and categorical health programs, such as immunizations, administered by the Secretary;

"(3) disseminating information to the States in such areas as preventive health services and advances in the care and treatment of mothers and children;

"(4) providing technical assistance, upon request, to the States in such areas as program planning, establishment of goals and objectives, standards of care, and evaluation;

"(5) in cooperation with the National Center of Health Statistics and in a manner that avoids duplication of data collection, collection, maintenance, and dissemination of information relating to the health status and health service needs of mothers and children in the United States; and

"(6) assisting in the preparation of reports to the Congress on the activities funded and accomplishments achieved under this title from the information required to be reported by the States under sections 505 and 506.

"(b) The State health agency of each State shall be responsible for the administration (or supervision of the administration) of programs carried out with allotments made to the State under this title, except that, in the case of a State which on July 1, 1967, provided for administration (or supervision thereof) of the State plan under this title (as in effect on such date) by a State agency other than the State health agency, that State shall be considered to comply the requirement of this subsection if it would otherwise comply but for the fact that such other State agency administers (or supervises the administration of) any such program providing services for crippled children.

(b)(1) The Secretary of Health and Human Services shall, no later than October 1, 1984, report to the Congress on the activities of States receiving allotments under title V of the Social Security Act (as amended by this section) and include in such report any recommendations for appropriate changes in legislation.

(2) The Secretary of Health and Human Services, in consultation with the Comptroller General, shall examine alternative formulas, for the allotment of funds to States under section 502(b) of the Social Security Act (as amended by this section) which might be used as a substitute for the method of allotting funds described in such section, which provide for the equitable distribution of such funds to States (as defined for purposes of such section), and which take into account—

(A) the populations of the States,

(B) the number of live births in the States,

(C) the number of crippled children in the States,

(D) the number of low income mothers and children in the States,

(E) the financial resources of the various States, and

(F) such other factors as the Secretary deems appropriate,

and shall report to the Congress thereon not later than June 30, 1982.

REPEALS AND CONFORMING AMENDMENTS

SEC. 2193. (a)(1)(A) Section 316(g) of the Public Health Service Act is amended by inserting ", and, subject to section 2194(b)(3) of the Maternal and Child Health Services Block Grant Act,

$8,300,000 for the fiscal year ending September 30, 1982" before the period.

(B) Section 1101(b) of such Act is amended by inserting "and, subject to section 2194(b)(3) of the Maternal and Child Health Services Block Grant Act, $9,680,000 for the fiscal year ending September 30, 1982" before the period.

(C) Section 1122l(d)(1) of such Act is amended by inserting "; and, subject to section 2194(b)(3) of the Maternal and Child Health Services Block Grant Act, $2,075,000 for fiscal sear 1982" before the period.

(D) Section 1131(f) of such Act is amended by inserting ", and, subject to section 2194(b)(3) of the Maternal and Child Health Services Block Grant Act, $2,765,000 for the fiscal year ending September 30, 1982" before the period.

(2) Section 607 of the Health Services and Centers Amendments of 1978 (Public Law 95-626) is amended by inserting ", and, subject to section 2194(b)(3) of the Maternal and Child Health Services Block Grant Act, $8,530,000 for the fiscal year ending September 30, 1982" before the period.

(3) Section 501 of the Social Security Act (as in effect before the date the amendment made by section 2192(a) becomes effective) is amended by striking out "for each fiscal year thereafter" and inserting in lieu thereof "and for each of the next three fiscal years, and, subject to section 2194(b)(3) of the Maternal and Child Health Services Block Grant Act, $317,580,000 for the fiscal year ending September 30, 1982".

(4)(A) Section 1615(e)(1) of the Social Security Act is amended by inserting "and subject to section 2194(b)(3) of the Maternal and Child Health Services Block Grant Act" after "paragraphs (2) and (3)".

(B) Effective for fiscal year 1982, section 1615(e)(3) of such Act is amended by striking out "$30,000,000" and inserting in lieu thereof "$24,070,000".

(b)(1) Sections 316, 1101, 1121 and 1131 of the Public Health Service Act are repealed.

(2) Section 1104(a) of such Act is amended by inserting "and" at the end of paragraph (3), by striking out paragraph (4), and by redesignating paragraph (5) as paragraph (4).

(3) Section 1104 of such Act is further amended (A) by striking out subsections (b) and (d), (B) by striking out "or under section 1101" in subsection (c), and (C) by redesignating subsection (c) as subsection (b).

(4) Sections 1106 and 227 of such Act are repealed.

(5) Section 1107 of such Act is amended by striking out "appropriated under section 1101(b)" and inserting in lieu thereof "allotted for use under section 502(a) of the Social Security Act".

(c)(1) Section 1108(d) of the Social Security Act is amended by striking out "section 502(a)" and all that follows through "1967" and inserting in lieu thereof "section 421".

(2) Section 1101(a)(9)(D) of such Act is amended by striking out "V, XVIII, and XIX" and inserting in lieu thereof "XVIII and XIX".

(3) Section 1122 of such Act is amended—

(A) by striking out "V, XVIII, and XIX" and inserting in lieu thereof "XVIII and XIX" each place it appears, and

(B) by striking out "V, XVIII, or X" in subsection (d)(2) and inserting in lieu thereof "XVIII or XIX".

(4) Section 1129 of such Act is amended—

(A) by striking out "V or" each place it appears in subsection (a), and

(B) by striking out "V, XVIII, or" in subsection (b)(2) and inserting in lieu thereof "XVIII or".

(5) Section 1132(a)(1) of such Act is amended by striking out "V,".

(6) Section 1134 of such Act is amended by striking out "V, XVIII," and inserting in lieu thereof "XVIII".

(7) Section 1172(4) of such Act is amended by striking out "V,".

(8)(A) Subsection (a) of section 1615 of such Act is amended by striking out "appropriate State agency administering the State plan under subsection (b) of this section, and (except in such cases" and inserting in lieu thereof "State agency administering the State program under title V, and (except for individuals who have not attained age 16 and except in such other cases".

(B) Subsections (b) and (e) of such section are repealed.

(9) Section 1861(w)(2) of such Act is amended by striking out "V or"

(9) Section 1902(a)(11)(B) of such Act is amended—

(A) by striking out "for part or all of the cost of plans or projects under" and inserting in lieu thereof "under (or through an allotment under)", and

(B) by striking out "such plan or project under title V" and inserting in lieu thereof "such title or allotment".

(d)(1) The second sentence of section 402(a)(1) of the Social Security Amendments of 1967 (P.L. 90-248) is amended—

(A) by striking out "title XVIII of such Act," and inserting in lieu thereof "title XVIII of such Act and", and

(B) by striking out the ", and a program established by a plan of a State approved under title V of such Act".

(2) Section 402(a)(2) of such Act is amended by striking out "titles V and XIX and inserting in lieu thereof "title XIX" both places it occurs.

(3) Section 402(b) of such Act is amended by striking out ", XIX, and V" and inserting in lieu thereof "and XIX".

(e)(1) Section 222(a)(1) of the Social Security Amendments of 1972 (P.L. 92-603) is amended by striking out "titles XIX and V" and inserting in lieu thereof "title XIX"

(2) The first sentence of section 222(a)(3) of such Act is amended by striking out ", XIX, and V" and inserting in lieu

thereof "and XIX".

(3) Section 222(a)(4) of such Act is amended by striking out "titles V and XIX" and inserting in lieu thereof "title XIX" both places it appears.

(f) Titles VI and VII of the Health Services and Centers Amendments of 1978 (P.L. 95-626) are repealed.

(g) Section 914(d) of the Omnibus Reconciliation Act of 1980 (P.L 96-499; 94 Stat. 2622) is amended by striking out "V, XVIII," and inserting in lieu thereof "XVIII".

EFFECTIVE DATE; TRANSITION

SEC. 2194. (a) Except as otherwise provided in this section, the amendments made by sections 2192 and 2193 of this subtitle do not apply to any grant made, or contract entered into, or amounts payable to States under State plans before the earlier of—

(1) October 1, 1982, or

(2)(A) in the case of such grants, contracts, or payments under consolidated State programs (as defined in subsection (c)(2)(C)) to a State (or entities in the State), the date the State is first entitled to an allotment under title V of the Social Security Act (as amended by this subtitle), or

(B) in the case of grants and contracts under consolidated Federal programs (as defined in subsection (c)(2)(B)), October 1, 1981, or such later date (before October 1, 1982) as the Secretary determines to be appropriate.

(b)(1) The Secretary of Health and Human Services (hereinafter in this section referred to as the "Secretary") may not provide for any allotment to a State under title V of the Social Security Act (as amended by this subtitle) for a calendar quarter in fiscal year 1982 unless the State has notified the Secretary, at least 30 days (or 15 days in the case of the first calendar quarter of the fiscal year) before the beginning of the calendar quarter, that the State requests an allotment for that calendar quarter (and subsequent calendar quarters).

(2)(A) Any grants or contracts entered into under the authorities of the consolidated State programs (as defined in subsection (c)(2)(C)) after the date of the enactment of this subtitle shall permit the termination of such grant or contract upon three months notice by the State in which the grantee or contractor is located.

(B) The Secretary shall not make or renew any grants or contracts under the provisions of the consolidated State programs (as defined in subsection (c)(2)(C)) to a State (or an entity in the State) after the date the State becomes entitled to an allotment of funds under title V of the Social Security Act (as amended by this subtitle).

(3)(A) In the case of funds appropriated for fiscal year 1982 for consolidated health programs (as defined in subsection (c)(2)(A)), such funds shall (notwithstanding any other provision of law) be available for use under title V of the Social Security Act (as amended by this subtitle), subject to subparagraphs (B) and (C).

(B) Notwithstanding any other provision of law—

(i) the amount that may be made available for expenditures for the consolidated Federal programs for fiscal year 1982 and for projects and programs under section 502(a) of the Social Security Act (as amended by this subtitle) may not exceed the amount provided for projects and programs under such section 502(a) for that fiscal year, and

(ii) the amount that may be made available to a State (or entities in the State) for carrying out the consolidated State programs for fiscal year 1982 and for allotments to the State under section 502(b) of the Social Security Act (as amended by this subtitle) may not exceed the amount which is allotted to the State for that fiscal year under such section (without regard to paragraphs (A and (4) thereof)

(C) For fiscal year 1982, the Secretary shall reduce the amount which would otherwise be available—

(i) for expenditures by the Secretary under section 502(a) of the Social Security Act (as amended by this subtitle) by the amounts which the Secretary determines or estimates are payable for consolidated Federal programs (as defined in subsection (c)(2)(B)) from funds for fiscal year 1982, and

(ii) for allotment to each of the States under section 502(b) of such Act (as so amended) by the amounts which the Secretary determines or estimates are payable to that State (or entities in the State) under the consolidated State programs (as defined in subsection (c)(2)(C)) from funds for fiscal year 1982.

(c) For purposes of this section:

(1) The term "State" has the meaning given such term for purposes of title V of the Social Security Act.

(2)(A) The term "consolidated health programs" has the meaning given such term in section 501(b) of the Social Security Act (as amended by this subtitle).

(B) The term "consolidated Federal programs" means the consolidated health programs—

(i) of special projects grants under sections 503 and 504, and training grants under section 511, of the Social Security Act,

(ii) of grants and contracts for genetic disease projects and programs under section 1101 of the Public Health Service Act, and

(iii) of grants or contracts for comprehensive hemophilia diagnostic and treatment centers under section 1131 of the Public Health Service Act,

as such sections are in effect before the date of the enactment of this subtitle.

(C) The term "consolidated State programs" means the consolidated health programs, other than the consolidated Federal programs.

(d) The provisions of chapter 2 of subtitle C of title XVII of this Act shall not apply to this subtitle (or the programs under the amendments made by this title) and, specifically, section 1745 of this Act shall not apply to financial and compliance audits conducted under section 506(b) of the Social Security Act (as amended by this subtitle).

P.L. 95-626—HEALTH SERVICES AND CENTERS AMENDMENTS OF 1978

TITLE VI—GRANT PROGRAM

FINDINGS AND PURPOSES

SEC. 601. (a) The Congress finds that—

(1) adolescents are at a high risk of unwanted pregnancy;

(2) in 1975, almost 1,000,000 adolescents became pregnant and nearly 600,000 carried their babies to term;

(3) pregnancy and childbirth among adolescents, particularly young adolescents, often results in severe adverse health, social, and economic consequences, including: a higher percentage of pregnancy and childbirth complications; a higher incidence of low-birth-weight babies; a higher frequency of developmental disabilities; higher infant mortality and morbidity; a decreased likelihood of completing schooling; a greater likelihood that adolescent marriage will end in divorce; and higher risks of unemployment and welfare dependency;

(4) an adolescent who becomes pregnant once is likely to experience rapid repeat pregnancies and childbearing, with increased risks;

(5) the problems of adolescent pregnancy and parenthood are multiple and complex and are best approached through a variety of integrated and essential services;

(6) such services, including a wide array of educational and supportive services, often are not available to the adolescents who need them, or are available but fragmented and thus of limited effectiveness in preventing pregnancies and future welfare dependency; and

(7) Federal policy therefor should encourage the development of appropriate health, educational, and social services where they are now lacking or inadequate, and the better coordination of existing services where they are available in order to prevent unwanted early and repeat pregnancies and to help adolescents become productive, independent contributors to family and community life.

(b) Therefore, the purposes of this Act are—

(1) to establish better coordination, integration, and linkages among existing programs in order to expand and improve the availability of, and access to, needed comprehensive community services which assist in preventing unwanted initial and repeat pregnancies among adolescents, enable pregnant adolescents to obtain proper care and assist pregnant adolescents and adolescent parents to become productive independent contributors to family and community

life, with primary emphasis on services to adolescents who are 17 years of age and under and are pregnant or who are parents;

(2) to expand the availability of such services that are essential to that objective; and

(3) to promote innovative, comprehensive, and integrated approaches to the delivery of such services.

DEFINITIONS

SEC. 602. For the purposes of this Act, the term—

(1) "Secretary" means the Secretary of the Department of Health, Education, and Welfare;

(2) "eligible person" means—

(A) with regard to the provision of all necessary core services and such necessary supplemental services as may be available, a pregnant adolescent or an adolescent parent; or

(B) with regard to the provision of the services described in paragraphs (4)(A), (4)(B), and (4)(G) and referral to such other services which may be appropriate, a nonpregnant adolescent;

(3) "eligible grant recipient" means a public or nonprofit private organization or agency which demonstrates, to the satisfaction of the Secretary, the capability of providing in a single setting all core services or the capability of creating a network through which all core services would be provided;

(4) "core services" means those services which shall be provided by all grantees which are—

(A) pregnancy testing, maternity counseling, and referral services;

(B) family planning services, except that such services for nonpregnant adolescents shall be limited to counseling and referral unless suitable and appropriate family planning services are not otherwise available in the community;

(C) primary and preventive health services including pre- and post-natal care;

(D) nutrition information and counseling;

(E) referral for screening and treatment of venereal disease;

(F) referral to appropriate pediatric care;

(G) educational services in sexuality and family life (including sex education), and including family planning information;

(H) referral to appropriate educational and vocational services;

(I) adoption counseling and referral services; and

(J) referral to other appropriate health services;

(5) "supplemental services" means those services which may be provided and are—

(A) child care sufficient to enable the adolescent parent to continue her education or to enter into employment;

(B) consumer education and homemaking;

(C) counseling for extended family members of the eligible person;

(D) transportation; and

(E) such other services consistent with the purposes of this Act as the Secretary may approve in accordance with regulations promulgated by the Secretary;

(6) "adolescent parent" means a parent under the age of 21.

AUTHORITY TO MAKE GRANTS

SEC. 603. The Secretary may make grants to further the purposes of this Act to eligible grant recipients which have submitted an application which the Secretary finds meets the requirements of section 606 for projects which the Secretary determines will help communities provide core and supplemental services in easily accessible locations, assure a continuity of services and appropriate assistance, and coordinate, integrate, and establish linkages among such services. Projects shall, as appropriate, provide, supplement, or improve the quality of such services, and in providing services, give primary emphasis to adolescents who are 17 years of age or under and are pregnant or who are parents.

USES OF GRANTS

SEC. 604. (a) Funds provided under this Act may be used by grantees only to—

(1) provide core services to eligible persons;

(2) coordinate, integrate, and provide linkages among providers of core, supplemental, and other services for eligible persons in furtherance of the purposes of this Act;

(3) provide supplemental services where such services are not adequate or not available to eligible persons in the community and which are essential to the care of pregnant adolescents and to the prevention of adolescent pregnancy;

(4) plan for the administration and coordination of pregnancy prevention and pregnancy-related services for adolescents (including family life and sex education), which will further the objectives of this Act; and

(5) fulfill assurances required for grant approval by section 606.

(b) Grantees shall charge fees for services only pursuant to a fee schedule, approved by the Secretary as a part of the application described in section 606, which bases fees charged by the grantee on the income of the eligible person or the parents or legal guardians of the eligible person and takes into account the difficulty adolescents face in obtaining resources to pay for services. In no case may a grantee discriminate with regard to the provision of services to any individual because of that individual's inability to provide payment for such services.

PRIORITIES, AMOUNTS, AND DURATION OF GRANTS

SEC. 605. (a) In approving applications for grants under this Act, the Secretary shall give priority to applicants who—

(1) serve an area where there is a high incidence of adolescent pregnancy;

(2) serve an area where the incidence of low-income families is high and where the availability of pregnancy-related services is low;

(3) show evidence of having the ability to bring together a wide range of needed care and, as appropriate, supplemental services in comprehensive single-site projects, or to establish a well-integrated network of such services (appropriate for the target population and geographic area to be served including the special needs of rural areas) for adolescents at risk of initial or repeat pregnancies;

(4) will utilize to the maximum extent feasible, existing available programs and facilities such as neighborhood and primary health care centers, family planning clinics, children and youth centers, maternal and infant health centers, regional rural health facilities, school and other educational programs, mental health programs, nutrition programs, recreation programs, and other ongoing pregnancy prevention and pregnancy-related services;

(5) make use, to the maximum extent feasible, of other Federal, State, and local funds, programs, contributions, and other third-party reimbursements;

(6) can demonstrate a community commitment to the program by making available to the project non-Federal funds, personnel, and facilities; and

(7) have involved the community to be served, including public and private agencies, adolescents and families, in the planning and implementation of the project.

(b)(1) The amount of a grant under this Act shall be determined by the Secretary, based on factors such as the incidence of adolescent pregnancy in the geographic area to be served and the adequacy of pregnancy prevention and pregnancy-related services in the area to be served.

(2) In making grants under this Act, the Secretary shall consider the special needs of rural areas and, to the maximum extent practicable, shall distribute funds in consideration of the relative number of adolescents in such areas in need of such

services.

(c)(1) A grantee may not receive funds under this Act for a period in excess of 5 years.

(2) Subject to paragraph (3), a grant made under this Act may not exceed 70 percent of the costs of a project assisted under this Act for the first and second years of the project. In each year succeeding the second year of the project the amount of the Federal grant under this Act shall decrease by no less than 10 percent of the amount of the Federal grant under this Act in the preceding year.

(3) The Secretary may waive the limitation specified in paragraph (2) in any year in accordance with criteria established by regulation.

REQUIREMENTS FOR GRANT APPROVAL

SEC. 606. (a) An application for a grant under this Act shall be in such form and contain such information as the Secretary may require, and shall include—

(1) an identification of the incidence of adolescent pregnancy and related problems;

(2) a description of the economic conditions and income levels in the geographic area to be served;

(3) a description of existing pregnancy prevention and pregnancy-related services (including family life and sex education), and including where, how, by whom and to whom they are provided, and the extent to which they are coordinated in the geographic area to be served;

(4) a description of the major unmet needs for services for adolescents at risk of initial or repeat pregnancies, the number of adolescents currently served in the area, and the number of adolescents not being served in the area;

(5) a description of how all of the core services will be provided in the project using funds under this Act or otherwise provided by the grantee, to whom they will be provided, how they will be coordinated, integrated, and linked with other related programs and services and the source or sources of funding of such core services;

(6) a description of how adolescents needing services other than those provided directly by the grantee will be identified and how access and appropriate referral to those services (such as medicaid; public assistance; employment services; child care services for adolescent parents; and other city county, and State programs related to adolescent pregnancy) will be provided including a description of the plan to coordinate such services with activities funded under this Act;

(7) a description of any fee schedule to be used for any services provided directly by the grantee and the method by which it was derived, together with assurances that the

applicant will make every reasonable effort to collect reimbursement for its costs in providing services to persons who are entitled to have payment made on their behalf for such services under any Federal or other government program or private insurance program;

(8) a description of the grantee's capacity to continue services as Federal funds decrease and in the absence of Federal assistance;

(9) a description of the results expected from the provision of services and activities, and the procedures to be used for evaluating those results;

(10) a summary of the views of public agencies, providers of services and the general public in the geographic area to be served, of the proposed use of the funds provided under a grant provided under this Act, and a description of procedures used to obtain those views, and, in the case of applicants who propose to coordinate services administered by a State, the written comments of the appropriate State officials responsible for such services;

(11) assurances that the applicant will have an ongoing quality assurance program;

(12) assurances that the applicant shall have a system for maintaining the confidentiality of patient records in accordance with regulations promulgated by the Secretary;

(13) assurances that the applicant will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

(14) assurances that the applicant (A) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act for the payment of all or a part of the applicant's costs in providing health services to persons who are eligible for medical assistance under such a State plan, or (B) has made or will make every reasonable effort to enter into such an arrangement;

(15) assurances that the applicant has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to benefits under title V of the Social Security Act, to medical assistance under a State plan approved under title XIX of such Act, or to assistance for medical expenses under any other public assistance program or private health insurance program;

(16) assurances that the applicant has or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing services to persons entitled to services under title XX of the Social

Security Act;

(17) assurances that the applicant (A) has prepared a schedule of fees or payments for the provision of its services designed to cover its reasonable costs of operation and a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay, (B) has made and will continue to make every reasonable effort (i) to secure from patients payment for services in accordance with such schedules, and (ii) to collect reimbursement for health or other services on the basis of the full amount of fees and payments for such services without application of any discount, and (C) has submitted to the Secretary such reports as he may require to determine compliance with this paragraph;

(18) assurances that the applicant will make maximum use of funds available under title X of the Public Health Service Act;

(19) assurances that the acceptance by any individual of family planning services or family planning or population growth information (including educational materials) provided through financial assistance under this title shall be voluntary and shall not be a prerequisite to eligibility for or receipt of any other service furnished by the applicant;

(20) assurances that fees collected by the applicant for services rendered in accordance with this Act shall be used by the applicant to further the purposes of this Act;

(21) assurances that unemancipated minors requesting services from the applicant will be encouraged, whenever feasible, to consult with their parents with respect to such services;

(22) assurances that all pregnant adolescents receiving services will be informed of the availability of counseling (either by the entity providing core services or through a referral agreement with such other entity which provides such counseling) on all options, regarding her pregnancy;

(23) assurances that primary emphasis for services paid for with funds under this Act shall be given to pregnant adolescents and adolescent parents 17 and under who are not able to obtain needed assistance through other means; and

(24) assurances that funds received under this Act shall not supplant funds received from any other Federal, State, or local program or any private sources of funds.

(b) Each grantee which participates in the program established by this title shall make such reports concerning its use of Federal funds as the Secretary may require. Reports shall include the impact the project has had on reducing the rate of first and repeat pregnancies among adolescents, and the effect on factors usually associated with welfare dependency.

(c) The Secretary shall provide the Governor of each State copies of applications received for grants under this Act from applicants within such State. The Governor shall have a period of 60 days from receipt of such copies to review and submit comments to the Secretary.

(d) No application submitted for a grant under this Act may be approved unless the Secretary is satisfied that core services shall be available through the grantee within a reasonable time after such grant is received.

AUTHORIZATION OF APPROPRIATIONS

SEC. 607. For the purpose of carrying out this title, there are authorized to be appropriated $50,000,000 for the fiscal year ending September 30, 1979, $65,000,000 for the fiscal year ending September 30, 1980 and $75,000,000 for the fiscal year ending September 30, 1981.

FUND RESTRICTION

SEC. 608. No funds for grants made under the provisions of this Act may be used for payment for the performance of an abortion.

TITLE VII—IMPROVING COORDINATION OF FEDERAL AND STATE PROGRAMS

SEC. 701. (a) The Secretary shall coordinate, consistent with provisions of other Federal law respecting coordination of such policies and programs, Federal policies and programs providing services related to prevention of initial and repeat adolescent pregnancies. Among other things, the Secretary shall—

(1) require that grantees under title VI report periodically on Federal, State, and local programs or policies that interfere with the delivery and coordination of pregnancy prevention and pregnancy-related services to adolescents;

(2) provide technical assistance to assure that coordination by grantees of Federal programs at the State and local level will be facilitated;

(3) recommend legislative modifications of programs of the Department of Health, Education, and Welfare that provide pregnancy-related services in order to facilitate their use as a base for delivery of more comprehensive pregnancy prevention and pregnancy-related services to adolescents;

(4) give funding priority, where appropriate, to grantees using single or coordinated grant applications for multiple programs; and

(5) give priority, where appropriate, to providing funding under existing Federal programs to projects providing comprehensive pregnancy prevention and pregnancy-related

services.

(b) A State using funds provided under title VI to improve the delivery of pregnancy prevention and pregnancy-related services throughout the State shall coordinate its activities with programs of local grantees, if any, that are funded under title VI.

(c) The Secretary shall set aside, in each fiscal year, not less than 1 per centum nor more than 3 per centum of the funds appropriated under this Act for evaluation of activities under titles VI and VII and shall designate a program unit to carry out such evaluations, which shall be a program unit other than the unit having primary administrative responsibility for carrying out the grant program authorized by this Act. The Secretary shall submit to the appropriate committees of the Congress, not later than February 1, 1981, and periodically thereafter copies of summaries of all such evaluations.

(d) The program unit responsible for carrying out the activities under titles VI and VII shall report directly to the Assistant Secretary for Health in consultation and in coordination with the Deputy Assistant Secretary for Population Affairs..

TITLE VIII—STUDY OF ADOLESCENT PREGNANCY

SEC. 801. (a) The Secretary of Health, Education, and Welfare shall contract with an independent entity to perform a study of the problem of adolescent pregnancies. The study shall evaluate the effectiveness of existing programs relating to health, education, and public welfare, as they relate to this problem, and shall include suggestions as to the most effective means for reducing or eliminating unwanted adolescent pregnancies. The Secretary shall report the results of such study to the Congress not later than one year after the date of the enactment of this Act.

(b) There are authorized to be appropriated such sums, not to exceed $500,000, as may be necessary to carry out the provisions of this section.

Approved November 10, 1978.

P.L. 94-142—EDUCATION FOR ALL HANDICAPPED CHILDREN ACT OF 1975

STATEMENT OF FINDINGS AND PURPOSE

SEC. 3. (a) Section 601 of the Act (90 U.S.C. 1401) is amended by inserting "(a)" immediately before "This title" and by adding at the end thereof the following new subsections:

"(b) The Congress finds that—

"(1) there are more than eight million handicapped children in the United States today;

"(2) the special educational needs of such children are not being fully met;

"(3) more than half of the handicapped children in the United States do not receive appropriate educational services which should enable them to have full equality of opportunity;

"(4) one million of the handicapped children in the United States are excluded entirely from the public school system and will not go through the educational process with their peers;

"(5) there are many handicapped children throughout the United States participating in regular school programs whose handicaps prevent them from having a successful educational experience because their handicaps are undetected;

"(6) because of the lack of adequate services within the public school system, families are often forced to find services outside the public school system, often at great distance from their residence and at their own expense;

"(7) developments in the training of teachers and in diagnostic and instructional procedures and methods have advanced to the point that, given appropriate funding, State and local educational agencies can and will provide effective special education and related services to meet the needs of handicapped children;

"(8) State and local educational agencies have a responsibility to provide education for all handicapped children, but present financial resources are inadequate to meet the special educational needs of handicapped children; and

"(9) it is in the national interest that the Federal Government assist State and local efforts to provide programs to meet the educational needs of handicapped children in order to assure equal protection of the law.

"(c) It is the purpose of this Act to assure that all handicapped children have available to them, within the time periods specified in section 612(2) (B), a free appropriate public education which emphasizes special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist States and localities to provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children.".

(b) The heading for section 601 of the Act (20 U.S.C. 1401) is amended to read as follows:

"SHORT TITLE; STATEMENT OF FINDINGS AND PURPOSE".

DEFINITIONS

SEC. 4. (a) Section 602 of the Act (20 U.S.C. 1402) is amended—

(1) in paragraph (1) thereof, by striking out "crippled" and inserting in lieu thereof "orthopedically impaired", and by inserting immediately after "impaired children" the following: ", or children with specific learning disabilities,";

(2) in paragraph (5) thereof, by inserting immediately after "instructional materials," the following: "telecommunications, sensory, and other technological aids and devices,";

(3) in the last sentence of paragraph (15) thereof, by inserting immediately after "environmental" the following: ", cultural, or economic"; and

(4) by adding at the end thereof the following new paragraphs:

"(16) The term 'special education' means specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions.

"(17) The term 'related services' means transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, and medical and counseling services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a handicapped child to benefit from special education, and includes the early identification and assessment of handicapping conditions in children.

"(18) The term 'free appropriate public education' means special education and related services which (A) have been provided at public expense, under public supervision and direction, and without charges, (B) meet the standards of the State educational agency, (C) include an appropriate preschool, elementary or secondary school education in the State involved, and (D) are provided in conformity with the individualized education program required under section 614(a)(5).

P.L. 94-103—DEVELOPMENTALLY DISABLED ASSISTANCE AND BILL OF RIGHTS ACT OF 1973

To amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs authorized by that Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Developmentally Disabled Assistance and Bill of Rights Act".

TITLE I—EXTENSION AND REVISION OF THE DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES CONSTRUCTION ACT

PART A—ONE-YEAR EXTENSION OF EXISTING AUTHORITIES

EXTENSION OF EXISTING AUTHORITIES THROUGH FISCAL YEAR 1975

SEC. 101. (a) Section 122(b) and 131 of the Developmental Disabilities Services and Facilities Construction Act (hereinafter in this Act referred to as the "Act") are each amended by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, and June 30, 1975".

(b) Section 137(b)(1) of the Act is amended by striking out "and June 30, 1974" and inserting in lieu thereof ", June 30, 1974, and June 30, 1975".

PART B—REVISION OF ASSISTANCE FOR UNIVERSITY AFFILIATED FACILITIES

UNIVERSITY AFFILIATED FACILITIES

SEC. 105. Part B of the Act is amended to read as follows:

"PART B—UNIVERSITY AFFILIATED FACILITIES

"Subpart 1—Demonstration and Training Grants

"GRANT AUTHORITY

"SEC. 121. (a)(1) From appropriations under section 123, the Secretary shall make grants to university affiliated facilities to assist them in meeting the cost of administering and operating—

"(A) demonstration facilities for the provision of services for persons with developmental disabilities, and

"(B) interdisciplinary training programs for personnel needed to render specialized services for persons with developmental disabilities.

"(2) A university affiliated facility which has received a grant under paragraph (1) may apply to the Secretary for an increase in the amount of its grant under such paragraph to assist it in meeting the cost of conducting a feasibility study of the ways in which it, singly or jointly with other university affiliated facilities which have received a grant under paragraph (1), can establish and operate one or more satellite centers which would be located in areas not served by a university affiliated facility and which would provide, in coordination with demonstration facilities and training programs for which a grant was made under paragraph (1), services for persons with developmental disabilities. If the Secretary approves an application of a university affiliated facility under this paragraph for such a study, the Secretary may for such study increase the amount of the facility's grant under paragraph (1) by an amount not to exceed $25,000. Such a study shall be carried out in consultation with the State Planning Council for the State in which the facility is located and where the satellite center would be established.

"(b) The Secretary may make grants to pay part of the costs of establishing satellite centers and may make grants to satellite centers to pay part of their administration and operation costs. The Secretary may approve an application for a grant under this subsection only if the feasibility of establishing or operating the satellite center for which the grant is applied for has been established by a study assisted under subsection (a)(2) .

"APPLICATIONS

"SEC. 122. (a) No grant may be made under section 121 unless an application therefor is submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application may be approved by the Secretary only if the application contains or is supported by reasonable assurances that the making of the grant applied for will not result in any decrease in the level of State, local, and other non-Federal funds for services for persons with developmental disabilities and training of persons to provide such services which funds would (except for such grant) be available to the applicant, but that such grant will be used to supplement, and, to the extent practicable, to increase the level of such funds.

"(b) The Secretary shall give special consideration to applications for grants under section 121(a) for programs which demonstrate an ability and commitment to provide within a community rather than in an institution services for persons with developmental disabilities.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 123. (a) For the purpose of making grants under section 121 there are authorized to be appropriated $15,000,000 for fiscal year 1976, $18,000,000 for fiscal year 1977, and $21,000,000 for fiscal year 1978.

"(b)(1) Of the sums appropriated under subsection (a) for fiscal years 1976 and 1977, not less than $5,000,000 shall be made available for grants in each such fiscal year under section 121(a)(1). The remainder of the sums appropriated for such fiscal years shall be made available as follows:

"(A) First, $750,000 shall be made available in each such fiscal year for studies described in section 121(a)(2). The portion of such $750,000 not required for such studies shall be made available for grants under section 121(a)(1).

"(B) Second, any remaining sums shall be made available as the Secretary determines except that at least 40 per centum of such sums shall be made available for grants under section 121(b).

"(2) Of the sums appropriated under subsection (a) for fiscal year 1978, not less than $5,500,000 shall be made available for grants in such fiscal year under section 121 (a)(1). The remainder of the sums appropriated for such fiscal year shall be made available as the Secretary determines except that at least 40 per centum of the remainder shall be made available for grants under section 121(b).

"Subpart 2—Construction

"PROJECTS AUTHORIZED

"SEC. 125. The Secretary may make grants—

"(1) to university-affiliated facilities to assist them in meeting the costs of the renovation or modernization of buildings which are being used in connection with an activity assisted by a grant under section 121(a); and

"(2) to university-affiliated facilities for the construction, renovation, or modernization of buildings to be used as satellite centers.

"APPLICATIONS

"SEC. 126. No grant may be made under section 125 unless an application therefor is submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application may be approved by the Secretary only if it contains or is supported by reasonable assurances that—

"(1) the plans and specifications for the project to be assisted by the grant applied for are in accord with regulations prescribed by the Secretary under section 109;

"(2) title to the site for such project is or will be vested in the applicant or in the case of a grant for a satellite center, in a public or other nonprofit entity which is to operate the center;

"(3) adequate financial support will be available for completion of the construction, renovation, or modernization of the project and for its maintenance and operation when completed;

"(4) all laborers and mechanics employed by contractors or subcontractors in the performance of work on the project will be paid at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 267c); and

"(5) the building which will be constructed, renovated, or modernized with the grant applied for will meet standards adopted pursuant to the Act of August 12, 1968 (42 U.S.C. 4151-4156) (known as the Architectural Barriers Act of 1968).

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 127. For the purpose of making payments under grants under section 125, there are authorized to be appropriated $3,000,000 for fiscal year 1976, $3,000,000 for fiscal year 1977, and $3,000,000 for fiscal year 1978."

PART C—REVISION OF ALLOTMENT PROGRAM

STATE ALLOTMENTS

SEC. 110. (a) Section 131 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS FOR ALLOTMENTS

"SEC. 131. For allotments under section 132, there are authorized to be appropriated $40,000,000 for fiscal year 1976, $50,000 000 for fiscal year 1977, and $60,000,000 for fiscal year 1978.

(b) Subsection (9) of section 132 of the Act is amended to read as follows:

"(a)(1)(A) In each fiscal year, the Secretary shall, in accordance with regulations and this paragraph, allot the sums appropriated for such year under section 131 among the States on the basis of—

"(i) the population,

"(ii) the extent of need for services and facilities for persons with developmental disabilities, and

"(iii) the financial need,

of the respective States. Sums allotted to the States under this section shall be used in accordance with approved State plans under section 134 for the provision under such plans of services and facilities for persons with developmental disabilities.

"(B)(i) Except as provided by clause (ii)—

"(I) the allotment of the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands under subparagraph (A) of this paragraph in any fiscal year shall not be less than $50,000; and

"(II) the allotment of each other State in any fiscal year shall not be less than the greater of $150,000, or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending June 30, 1974.

"(ii) If the amount appropriated under section 131 for any fiscal year exceeds $50,000,000, the minimum allotment of a State for such fiscal year shall be increased by an amount which bears the same ratio to the amount determined for such State under clause (i) as the difference between the amount so appropriated and the amount authorized to be appropriated for such fiscal year bears to $50,000,000.

"(2) In determining, for purposes of paragraph (1)(A)(ii), the extent of need in any State for services and facilities for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services specified, pursuant to section 134(b)(5), in the State plan of such State approved under section 134.

"(3) Sums allotted to a State in a fiscal year and designated by it for construction and remaining unobligated at the end of such year shall remain available to such State for such purpose in the next fiscal pear (and in such year only), in addition to the sums allotted to such State in such next fiscal year; except that if the maximum amount which may be specified for construction (pursuant to section 134(b)(15)) for a year plus any part of the amount so specified pursuant to such section for the preceding fiscal year and remaining unobligated at the end of such fiscal year is not sufficient to pay the Federal share of the cost of construction of a specific facility included in the construction program of the State developed pursuant to section 134(b)(13), the amount specified pursuant to section 134(b)(15) for such preceding year shall remain available for a second additional year for the purpose of paying the Federal share of the cost of construction of such facility.

"(4) Of the amount allotted to any State under paragraph (1) for fiscal year 1976, not less than 10 per centum of that allotment shall be used by such State, in accordance with the plan submitted pursuant to section 134(b)(20), for the purpose of assisting it in developing and implementing plans designed to eliminate inappropriate placement in institutions of persons with developmental disabilities; and of the amount allotted to any State under paragraph (1) for each succeeding fiscal year, not less than 30 per centum of that allotment shall be used by such State for such purpose."

(c) Subsection (d) of section 132 of the Act is amended by inserting after "as he may fix" the following: "(but not earlier than thirty days after he has published notice of his intention to make such reallotment in the Federal Register) ".

(d) Section 132 (e) of the Act is repealed.

(e)(1) Subsection (b) of section 132 of the Act is amended by stroking out "this part" each place it occurs and inserting in lieu thereof "the State plan".

(2) Section 134(b)(4) of the Act is amended by striking out "under this part" and inserting in lieu thereof "under section 132".

(3) Section 138 of the Act is amended by striking out "under this part" each place it occurs and inserting in lieu thereof "under section 132".

STATE PLANS

SEC. 111. (a) Subsection (b) of section 134 is amended as follows:

(1) Paragraph (1) of such subsection is amended by striking out "a State planning and advisory council" and inserting in lieu thereof "a State Planning Council as prescribed by section 141".

(2) Paragraph (3) of such subsection is amended by striking out "policies and procedures" and inserting in lieu thereof "priorities, policies, and procedures".

(3) Paragraph (5) of such subsection is amended to read as follows:

"(5) describe the quality, extent, and scope of treatment, services, and habilitation being provided or to be provided in implementing the State plan to persons with developmental disabilities;

(4) Paragraph (7) of such subsection is amended to read as follows:

"(7) include provisions, meeting such requirements as the United States Civil Service Commission may prescribe, relating to the establishment and maintenance of personnel standards on a merit basis;".

(5) Paragraph (8) of such subsection is amended to read as follows:

"(8) provide that the State Planning Council be adequately staffed and identify the staff assigned to the

Council:".

(6) Paragraph (9) of such subsection is amended by striking out "State planning and advisory council" and inserting in lieu thereof "State Planning Council".

(7) Paragraph (15) of such subsection is amended by striking out "50 per centum" and inserting in lieu thereof "10 per centum".

(8) Paragraph (14) of such subsection is amended by striking out "and assign" and inserting in lieu thereof "assign", and by inserting before the semicolon a comma and the following: "and require that construction of projects be done in accordance with standards prescribed by the Secretary pursuant to the Act of August 12, 1968 (42 U.S.C. 4151-4156) (known as the Architectural Barriers Act of 1968)".

(9) Such subsection is amended by striking out "and" after the semicolon at the end of paragraph (17), by redesignating paragraph (18) as paragraph (30), and by inserting the following new paragraphs after paragraph (17):

"(18) provide reasonable assurance that adequate financial support will be available to complete the construction of, and to maintain and operate when such construction is completed, any facility, the construction of which is assisted with sums allotted under section 132;

"(19) provide reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction project assisted with sums allotted under section 132 will be paid at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a-5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c);

"(20) contain a plan designed (A) to eliminate inappropriate placement in institutions of persons with developmental disabilities, and (B) to improve the quality of care and the state of surroundings of persons for whom institutional care is appropriate;

"(21) provide for the early screening, diagnosis, and evaluation (including maternal care, developmental screening, home care, infant and preschool stimulation programs, and parent counseling and training) of developmentally disabled infants and preschool children, particularly those with multiple handicaps;

"(22) provide for counseling, program coordination, follow-along services, protective services, and personal advocacy on behalf of developmentally disabled adults;

"(23) support the establishment of community programs as alternatives to institutionalization and support such programs which are designed to provide services for the care and habilitation of persons with developmental disabilities, and which utilize, to the maximum extent feasible, the resources and personnel in related community programs to assure full coordination with such programs and to assure the provision of appropriate supplemental health, educational, or social services for persons with developmental disabilities;

"(24) contain or be supported by assurances satisfactory to the Secretary that the human rights of all persons with developmental disabilities (especially those without familial protection) who are receiving treatment, services, or habilitation under programs assisted under this title will be protected;

"(25) provide for a design for implementation which shall include details on the methodology of implementation of the State plan, priorities for spending of funds provided under this part, a detailed plan for the use of such funds, specific objectives to be achieved under the State plan, a listing of the programs and resources to be used to meet such objectives, and a method for periodic evaluation of the design's effectiveness in meeting such objectives;

"(26) provide for the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 (Public Law 93-113) and other appropriate voluntary organizations except that volunteer services shall supplement, but shall not be in lieu of, services of paid employees;

"(27) provide for the implementation of an evaluation system in accordance with the system developed under section 110;

"(28) provide, to the maximum extent feasible, all opportunity for prior review and comment by the State Planning Council of all State plans of the State which relate to programs affecting persons with developmental disabilities;

"(29) provide for fair and equitable arrangements (as determined by the Secretary after consultation with the Secretary of Labor) to protect the interests of employees affected by actions to carry out the plan described in paragraph (20)(A), including arrangements designed to preserve employee rights and benefits and to provide training and retraining of such employees where necessary and arrangements under which maximum efforts will be made to guarantee the employment of such employees; and".

(b) Section 134 of the Act is amended by adding after subsection (c) the following new subsection:

"(d)(1) At the request of any State, a portion of any allotment or allotments of such State under this part for any fiscal year shall be available to pay one-half (or such smaller share as the State may request) of the expenditures found necessary by the Secretary for the proper and efficient administration of the State plan approved under this section; except that not more than 5 per centum of the total of the allotments of such State for any fiscal year, or $50,000, whichever is less, shall be available for such purpose. Payments under this paragraph may be made in advance or by way of reimbursements and in such installments as the Secretary may determine.

"(2) Any amount paid under paragraph (1) to any State for any fiscal year shall be paid on condition that there shall be expended from the State sources for such year for administration of the State plan approved under this section not less than the total amount expended for such purposes from such sources during the fiscal year ending June 30, 1975."

APPROVAL OF CONSTRUCTION PROJECTS

SEC. 112. Sections 135 and 136 of the Act are repealed.

PAYMENTS TO STATES

SEC. 113. Section 137 of the Act is amended as follows:

(1) The heading for such section is amended by inserting "CONSTRUCTION," after "PLANNING,".

(2) Subsection (a) of such section is amended by striking out "(1)" and by striking out paragraph (2).

(3) Subsection (b) is amended to read as follows:

"(b)(1) Upon certification to the Secretary by the State agency, designated pursuant to section 134(b)(1), based upon inspection by it, that work has been performed upon a construction project, or purchases have been made for such project, in accordance with the approved plans and specifications and that payment of an installment is due to the applicant, such installment shall be paid to the State with respect to such project, from the applicable allotment of such State, except that (A) if the State is not authorized by law to make payments to the applicant, the payment shall be made directly to the applicant, (B) if the Secretary, after investigation or otherwise, has reason to believe that any act (or failure to act) has occurred requiring action pursuant to section 136, payment may, after he has given the State agency so designated notice of opportunity for hearing pursuant to such section, be withheld, in whole or in part, pending corrective action or action based on such hearing, and (C) the total of payments under this subsection with respect to such project may not exceed an amount equal to the Federal share of the cost of construction of such project.

"(2) In case the estimated cost of a project is revised upward, any additional payment with respect thereto may be made from the applicable allotment of the State for the fiscal year in which such revision is approved."

WITHHOLDING OF PAYMENTS

SEC. 114. Section 138 of the Act is amended as follows:

(1) The heading for such section is amended by inserting "CONSTRUCTION," after "PLANNING,".

(2) Such section is amended by striking out "State planning and advisory council" and inserting in lieu thereof "State Planning Council", and by striking out "State council" and inserting in lieu thereof "State Council".

(3) Such section is amended by inserting "(a)" after "138.", by redesignating paragraphs (a) and (b) as paragraphs (1) and (2), respectively, and by adding at the end the following new subsection:

"(b) The State Planning Council of a State shall review the State's plan (including the design for implementation of such plan) under section 134 and the actions of the State under such plan for the purpose of determining if the State is complying with the requirements of the plan (and its design for implementation). For the purpose of assisting the Secretary in the implementation of this section, a State Planning Council may notify the Secretary of the results of any review carried out under this subsection."

NONDUPLICATION

SEC. 115. Section 140 of the Act is amended to read as follows:

"NONDUPLICATION

"SEC. 140. In determining the amount of any State's Federal share of the expenditures incurred by it under a State plan approved under section 134, there shall be disregarded (1) any portion of such expenditures which are financed by Federal funds provided under any provision of law other than section 132, and (2) the amount of any non-Federal funds required to be expended as a condition of receipt of such Federal funds."

STATE PLANNING COUNCILS

SEC. 116. Part C of the Act is amended by inserting after section 140 the following new section:

"STATE PLANNING COUNCILS

"SEC. 141. (a) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for persons with developmental disabilities. The members of a State's State Planning Council shall be appointed by the Governor of such State. Each State Planning Council shall at all times include in its membership representatives of the principal State agencies, local agencies, and nongovernmental agencies, and groups concerned with services to persons with developmental disabilities. At least one-third of the membership of such a Council shall consist of persons with developmental disabilities, or their parents or guardians, who are not officers of any entity, or employees of any State agency or of any other entity which receives funds or provides services under this part.

"(b) The State Planning Council shall—

"(1) supervise the development of and approve the State plan required by this part;

"(2) monitor and evaluate the implementation of such State plan;

"(3) to the maximum extent feasible, review and comment on all State plans in the State which relate to programs affecting persons with developmental disabilities; and

"(4) submit to the Secretary, through the Governor, such periodic reports on its activities as the Secretary may reasonably request.

"(c) Each State receiving assistance under this part shall provide for the assignment to its State Planning Council of personnel adequate to insure that the Council has the capacity to fulfill its responsibilities under subsection (b)."

SEC. 117. Part C of the Act is amended by inserting after section 141 (added by section 116 of this Act) the following new section:

"JUDICIAL REVIEW

"SEC. 142. If any State is dissatisfied with the Secretary's action under section 134(e) or section 136, such State may appeal to the United States court of appeals for the circuit in which such State is located, by filing a petition with such court within sixty days after such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, or any officer designated by him for that purpose. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Secretary may modify or set aside his order. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of the fact and may modify his previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States, upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Secretary's action."

PART D—REVISION OF SPECIAL PROJECTS ASSISTANCE

SPECIAL PROJECT GRANTS

SEC. 120. Part D of the Act is amended to read as follows:

"PART D—SPECIAL PROJECT GRANTS

"GRANT AUTHORITY

"SEC. 145. (a) The Secretary, after consultation with the National Advisory Council on Services and Facilities to the Developmentally Disabled, may make project grants to public or nonprofit private entities for—

"(1) demonstrations (and research and evaluation in connection therewith) for establishing programs which hold promise of expanding or otherwise improving services to persons with developmental disabilities (especially those who are disadvantaged or multihandicapped), including programs for parent counseling and training, early screening and intervention, infant and preschool children, seizure control systems, legal advocacy, and community based counseling, care, housing, and other services or systems necessary to maintain a person with developmental disabilities in the community;

"(2) public awareness and public education programs to assist in the elimination of social, attitudinal, and environmental barriers confronted by persons with developmental disabilities;

"(3) coordinating and using all available community resources in meeting the needs of persons with developmental disabilities (especially those from disadvantaged backgrounds);

"(4) demonstrations of the provision of services to persons with developmental disabilities who are also disadvantaged because of their economic status;

"(5) technical assistance relating to services and facilities for persons with developmental disabilities, including assistance in State and local planning or administration respecting such services and facilities;

"(6) training of specialized personnel needed for the provision of services for persons with developmental disabilities or for research directly related to such training;

"(7) developing or demonstrating new or improved techniques for the provision of services to persons with developmental disabilities (including model integrated service projects);

"(8) gathering and disseminating information relating to developmental disabilities; and

"(9) improving the quality of services provided in and the administration of programs for such persons.

"(b) No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. The Secretary may not approve such an application unless the State in which the applicant's project will be conducted has a State plan approved under part C. The Secretary shall provide to the State Planning Council for the State in which an applicant's project will be conducted an opportunity to renew the application for such project and to submit its comments thereon.

"(c) Payments under grants under subsection (a) may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. The amount of any grant under subsection (a) shall be determined by the Secretary. In determining the amount of any grant under subsection (a) for the costs of any project, there shall be excluded from such costs an amount equal to the sum of (1) the amount of any other Federal grant which the applicant has obtained, or is assured of obtaining, with respect to such project, and (2) the amount of any non-Federal funds required to be expended as a condition of such other Federal grant.

"(d) For the purpose of making payments under grants under subsection (a), there are authorized to be appropriated $15,000,000 for fiscal year 1976, $22,000,000 for fiscal year 1977, and $25,000,000 for fiscal year 1978.

"(e) Of the funds appropriated under subsection (d) for any fiscal year, not less than 25 per centum of such funds shall be used for projects which the Secretary determines (after consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled) are of national significance.

"(f) No funds appropriated under the Public Health Service Act, under this Act (other than under subsection (d) of this section) or under section 304 of the Rehabilitation Act of 1973 may be used to make grants under subsection (a)."

PART E—REVISION OF GENERAL PROVISIONS

GENERAL PROVISIONS

SEC. 125. Part A of the Act is amended to read as follows:

"PART A—GENERAL. PROVISIONS

"SHORT TITLE

"SEC. 101. This title may be cited as the 'Developmental Disabilities Services and Facilities Construction Act'.

"DEFINITIONS

"SEC. 102. For purposes of this title:

"(1) The term 'State' includes Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

"(2) The term 'facility for persons with developmental disabilities' means a facility, or a specified portion of a facility, designed primarily for the delivery of one or more services to persons with one or more developmental disabilities. .

"(3) The terms 'nonprofit facility for persons with developmental disabilities' and 'nonprofit private institution of higher learning' mean, respectively, a facility for persons with developmental disabilities and an institution of higher learning which are owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and the term 'nonprofit private agency or organization' means an agency or organization which is such a corporation or association or which is owned and operated by one or more of such corporations or associations.

"(4) The term 'construction' includes construction of new building acquisition, expansion, remodeling, and alteration of existing buildings, and initial equipment of any such buildings (including medical transportation facilities); including architect's fees, but excluding the cost of offsite improvements and the cost of the acquisition of land.

"(5) The term 'cost of construction' means the amount found by the Secretary to be necessary for the construction of a project.

"(6) The term 'title', when used with reference to a site for a project, means a fee simple, or such other estate or interest (including a leasehold on which the rental does not exceed 4 per centum of the value of the land) as the Secretary finds sufficient to assure for a period of not less than fifty years undisturbed use and possession for the purposes of construction and operation of the project.

"(7) The term 'developmental disability' means a disability of a person which—

"(A)(i) is attributable to mental retardation, cerebral palsy, epilepsy, or autism;

"(ii) is attributable to any other condition of a person found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment and services similar to those required for such persons; or

"(iii) is attributable to dyslexia resulting from a disability described in clause (i) or (ii) of this subparagraph;

"(B) originates before such person attains age eighteen;

"(C) has continued or can be expected to continue indefinitely; and

"(D) constitutes a substantial handicap to such person's ability to function normally in society.

"(8) The term 'services for persons with developmental disabilities' means specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability; and such term includes diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, training education, sheltered employment, recreation, counseling of the individual with such disability and of his family, protective and other social and socio-legal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons with developmental disabilities.

"(9) The term 'satellite center' means an entity which is associated with one or more university affiliated facilities and which functions as a community or regional extension of such university affiliated facilities in the delivery of training, services, and programs to the developmentally disabled and their families, to personnel of State agencies concerned with developmental disabilities, and to others responsible for the care of persons with developmental disabilities.

"(10) The term 'university affiliated facility' means a public or nonprofit facility which is associated with, or is an integral part of, a college or university and which aids in demonstrating the provision of specialized services for the diagnosis and treatment of persons with developmental disabilities and which provides education and training (including interdisciplinary training) of personnel needed to render services to persons with developmental disabilities.

"(11) The term 'Secretary' means the Secretary of Health, Education, and Welfare.

"FEDERAL SHARE

"SEC. 103. (a) The Federal share of any project to be provided through grants under part B and allotments under part C may not exceed 75 per centum of the necessary cost thereof as determined by the Secretary, except that if the project is located in an urban or rural poverty area, the Federal share may not exceed 90 per centum of the project's necessary costs as so determined.

"(b) The non-Federal share of the cost of any project assisted by a grant or allotment under this title may be provided in kind.

"(c) For the purpose of determining the Federal share with respect to any project, expenditures on that project by a political subdivision of a State or by a nonprofit private entity shall, subject to such limitations and conditions the Secretary may by regulation prescribe, be deemed to be expenditures by such State in the case of a project under part C or by a university-affiliated facility or a satellite center, as the case may be, in the case of a project assisted under part B.

"STATE CONTROL OF OPERATIONS

"SEC. 104. Except as otherwise specifically provided, nothing in this title shall be construed as conferring on any Federal officer or employee the right to exercise any supervision or control over the administration, personnel, maintenance, or operation of any facility for persons with developmental disabilities with respect to which any funds have been or may be expended under this title.

"RECORDS AND AUDIT

"SEC. 105. (a) Each recipient of assistance under this title shall keep such records as the Secretary shall prescribe, including (1) records which fully disclose (A) the amount and disposition by such recipient of the proceeds of such assistance, (B) the total cost of the project or undertaking in connection with which such assistance is given or used, and (C) the amount of that portion of the cost of the project or undertaking supplied by other sources, and (2) such other records as will facilitate an effective audit.

"(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of assistance under this title that are pertinent to such assistance.

"EMPLOYMENT OF HANDICAPPED INDIVIDUALS

"SEC. 106. As a condition of providing assistance under this title, the Secretary shall require that each recipient of such assistance take affirmative action to employ and advance in employment qualified handicapped individuals on the same terms and conditions required with respect to the employment of such individuals by the provisions of the Rehabilitation Act of 1973 which govern employment (1) by State rehabilitation agencies and rehabilitation facilities, and (2) under Federal contracts and subcontracts.

"RECOVERY

"SEC. 107. If any facility with respect to which funds have been paid under part B or C shall, at any time within twenty years after the completion of construction—

"(1) be sold or transferred to any person, agency, or organization which is not a public or nonprofit private entity, or

"(2) cease to be a public or other nonprofit facility for persons with developmental disabilities,

the United States shall be entitled to recover from either the transferor or the transferee (or, in the case of a facility which has ceased to be a public or other nonprofit facility for persons with developmental disabilities, from the owners thereof) an amount bearing the same ratio to the then value (as determined by the agreement of the parties or by action brought in the district court of the United States for the district in which the facility is situated) of so much of such facility as constituted an approved project or projects, as the amount of the Federal participation bore to the cost of the construction of such project or projects. Such right of recovery shall not constitute a lien upon such facility prior to judgment. The Secretary, in accordance with regulations prescribed by him, may, upon finding good cause therefor, release the applicant or other owner from the obligation to continue such facility as a public or other nonprofit facility for persons with developmental disabilities."

NATIONAL ADVISORY COUNCIL

SEC. 126. (a) Section 133 of the Act is transferred to part A of the Act (as amended by section 125), is redesignated as section 108, and is amended as follows:

(1) Subsection (a) of such section is amended to read as follows:

"(a)(1) There is established a National Advisory Council on Services and Facilities for the Developmentally Disabled (hereinafter in this section referred to as the 'Council') which shall consist of nine ex officio members and sixteen members appointed by the Secretary. The ex officio members of the Council are the Deputy Commissioner of the Bureau of Education for the Handicapped, the Commissioner of Rehabilitation Services Administration, the Administrator of the Social and Rehabilitation Service, the Director of the National Institute of Child Health and Human Development, the Director of the National Institute of Neurological Disease and Stroke, the Director of the National Institute of Mental Health, and three other representatives of the Department of Health, Education, and Welfare selected by the Secretary. The appointed members of the Council shall be selected from persons who are not full-time employees of the United States and shall be selected without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The appointed members shall be selected from advocates in the field of services to persons with developmental disabilities, including leaders in State or local government, in institutions of higher education, and in organizations which have demonstrated advocacy on behalf of such persons. At least five such members shall be representatives of State or local public or nonprofit private agencies responsible for services to persons with developmental disabilities, and at least five other such members shall be persons with developmental disabilities or the parents or guardians of such persons.

"(2) The Secretary shall from time to time designate one of the appointed members to serve as Chairman of the Council.

"(3) The Council shall meet at least twice a year.

"(4) The Federal Advisory Committee Act shall not apply with respect to the duration of the Council."

(2) Subsection (b) of such section is amended—

(A) by inserting "appointed" after "Each", and

(B) by striking out ", and except that" and all that follows in that subsection and inserting in lieu thereof a period and the following: "An individual who has served as a member of the Council may not be reappointed to the Council before two years has expired since the expiration of his last term of office as a member."

(3) Subsection (c) of such section is amended to read as follows:

"(c) It shall be the duty and function of the Council to—

"(1) advise the Secretary with respect to any regulations promulgated or proposed to be promulgated by the Secretary in the implementation of the provisions of this title;

"(2) study and evaluate programs authorized by this title to determine their effectiveness in carrying out the purposes for which they were established;

"(3) monitor the development and execution of this title and report directly to the Secretary any delay in the rapid execution of this title;

"(4) review grants made under this title and advise the Secretary with respect thereto; and

"(5) submit to the Congress annually an evaluation of the efficiency of the administration of the provisions of this title."

(4) Subsection (e) of such section is amended (A) by striking out "Members" and inserting in lieu thereof "Appointed members", and (B) by striking out "they" and inserting in lieu thereof "all of the members".

(b) The amendments made by subsection (a) do not affect the term of office of persons who on the date of the enactment of this Act are members of the National Advisory Council on Services and Facilities for the Developmentally Disabled. The Secretary of Health, Education, and Welfare shall make appointments to such Council in accordance with section 108 of the Act as vacancies occur in the membership of such Council on and after the date of the enactment of this Act. The ex officio members prescribed by section 108 of the Act shall take office as of the date of the enactment of this Act.

REGULATIONS

SEC. 127. Section 139 of the Act is transferred to part A of the Act (as amended by sections 125 and 126), is redesignated as section 109, and is amended as follows:

(1) Paragraphs (a), (b), and (c) are each amended by striking out "this part" and inserting in lieu thereof "part C".

(2) Paragraphs (a), (b), (c), and (d) are redesignated as paragraphs (1), (2), (3), and (4), respectively.

(3) The last sentence is repealed and the following new sentences are inserted in lieu thereof: "Regulations of the Secretary shall provide for approval of an application submitted by a State for a project to be completed by two or more political subdivisions, by two or more public or nonprofit private entities, or by any combination of such subdivisions and entities. Within one hundred and eighty days of the date of the enactment of any amendments to this title, the Secretary shall promulgate such regulations as may be required for implementation of such amendments."

EVALUATION

SEC. 128. Part A of the Act (as amended by sections 125, 126, and 127) is amended by adding after section 109 the following new section:

"EVALUATION SYSTEM

"SEC. 110. (a) The Secretary, in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, shall within two years of the date of the enactment of the Developmentally Disabled Assistance and Bill of Rights Act develop a comprehensive system for the evaluation of services provided to persons with developmental disabilities through programs (including residential and nonresidential programs) assisted under this title. Within six months after the development of such a system, the Secretary shall require, as a condition to the receipt of assistance under this title, that each State submit to the Secretary, in such form and manner as he shall prescribe, a time-phased plan for the implementation of such a system. Within two years after the date of the development of such a system, the Secretary shall require, as a condition to the receipt of assistance under this title, that each State provide assurances satisfactory to the Secretary that the State is using such a system.

"(b) The evaluation system to be developed under subsection (a) shall—

"(1) provide objective measures of the developmental progress of persons with developmental disabilities using data obtained from individualized habilitation plans as required under section 112 or other comparable individual data;

"(2) provide a method of evaluating programs providing services for persons with developmental disabilities which method uses the measures referred to in paragraph (1); and

"(3) provide effective measures to protect the confidentiality of records of, and information describing, persons with developmental disabilities.

"(c) Not later than two years after the date of the Developmentally Disabled Assistance and Bill of Rights Act, the Secretary shall submit to the Congress a report on the evaluation system developed pursuant to subsection (a). Such report shall include an estimate of the costs to the Federal Government and the States of developing and implementing such a system.

"(d) The Secretary, in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, may make grants to public and private nonprofit entities and may enter into contracts with individuals and public and nonprofit private entities to assist in developing the evaluation to be developed under subsection (a), except that such a grant or contract may not be entered into with entities or individuals who have any financial or other direct interest in any of the programs to be evaluated under such a system. Contracts may be entered into under this subsection without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5)."

TITLE II—ESTABLISHMENT AND PROTECTION OF THE RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES

RIGHTS OF THE DEVELOPMENTALLY DISABLED

SEC. 201. Part A of the Act (as amended by title I) is amended by inserting after section 110 the following new section:

"RIGHTS OF THE DEVELOPMENTALLY DISABLED

"SEC. 111. Congress makes the following findings respecting the rights of persons with developmental disabilities:

"(1) Persons with developmental disabilities have a right to appropriate treatment, services, and habilitation for such disabilities.

"(2) The treatment, services, and habilitation for a person with developmental disabilities should be designed to maximize the developmental potential of the person and should be provided in the setting that is least restrictive of the person's personal liberty.

"(3) The Federal Government and the States both have an obligation to assure that public funds are not provided to any institutional or other residential program for persons with developmental disabilities that—

"(A) does not provide treatment, services, and habilitation which is appropriate to the needs of such persons; or

"(B) does not meet the following minimum standards:

"(i) Provision of a nourishing, well-balanced daily diet to the persons with developmental disabilities being served by the program.

"(ii) Provision to such persons of appropriate and sufficient medical and dental services.

"(iii) Prohibition of the use of physical restraint on such persons unless absolutely necessary and prohibition of the use of such restraint as a punishment or as a substitute for a habilitation program.

"(iv) Prohibition on the excessive use of chemical restraints on such persons and the use of such restraints as punishment or as a substitute for a habilitation program or in quantities that interfere with services, treatment, or habilitation for such persons.

"(v) Permission for close relatives of such persons to visit them at reasonable hours without prior notice.

"(vi) Compliance with adequate fire and safety standards as may be promulgated by the Secretary.

"(4) All programs for persons with developmental disabilities should meet standards which are designed to assure the most favorable possible outcome for those served, and—

"(A) in the case of residential programs serving persons in need of comprehensive health-related, habilitative, or rehabilitative services, which are at least equivalent to those standards applicable to intermediate care facilities for the mentally retarded promulgated in regulations of the Secretary on January 17, 1974 (39 Fed. Reg. pt. II), as appropriate when taking into account the size of the institutions and the service delivery arrangements of the facilities of the programs;

"(B) in the case of other residential programs for persons with developmental disabilities, which assure that care is appropriate to the needs of the persons being served by such programs, assure that the persons admitted to facilities of such programs are persons whose needs can be met through services provided by such facilities, and assure that the facilities under such programs provide for the humane care of the residents of the facilities, are sanitary, and protect their rights; and

"(C) in the case of nonresidential programs, which assure the care provided by such programs is appropriate to the persons served by the programs."

HABILITATION PLANS

SEC. 202. Part A of the Act is amended by inserting after section 111 (added by section 201) the following new section:

"HABILITATION PLANS

"SEC. 112. (a) The Secretary shall require as a condition to a State's receiving an allotment under part C after September 30, 1976, that the State provide the Secretary satisfactory assurances that each program (including programs of any agency, facility, or project) which receives funds from the State's allotment under such part (1) has in effect for each developmentally disabled person who receives services from or under the program a habilitation plan meeting the requirements of subsection (b), and (2) provides for an annual review, in accordance with subsection (c), of each such plan.

"(b) A habilitation plan for a person with developmental disabilities shall meet the following requirements:

"(1) The plan shall be in writing.

"(2) The plan shall be developed jointly by (A) a representative or representatives of the program primarily responsible for delivering or coordinating the delivery of services to the person for whom the plan is established, (B) such person, and (C) where appropriate, such person's parents or guardian or other representative.

"(3) Such plan shall contain a statement of the long-term habilitation goals for the person and the intermediate habilitation objectives relating to the attainments of such goals. Such objectives shall be stated specifically and in sequence and shall be expressed in behavioral or other terms that provide measurable indices of progress. The plan shall (A) describe how the objectives will be achieved and the barriers that might interfere with the achievement of them, (B) state an objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved, and (C) provide for a program coordinator who will be responsible for the implementation of the plan.

"(4) The plan shall contain a statement (in readily understandable form) of specific habilitation services to be provided, shall identify each agency which will deliver such services, shall describe the personnel (and their qualifications) necessary for the provision of such services, and shall specify the date of the initiation of each service to be provided and the anticipated duration of each such service.

"(5) The plan shall specify the role and objectives of all parties to the implementation of the plan.

"(c) Each habilitation plan shall be reviewed at least annually by the agency primarily responsible for the delivery of services to the person for whom the plan was established or responsible for the coordination of the delivery of services to such person. In the course of the review, such person and the person's parents or guardian or other representative shall be given an opportunity to review such plan and to participate in its revision."

PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

SEC. 203. Part A of the Act is amended by inserting after section 112 (added by section 202) the following new section:

"PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

"SEC. 113. (a) The Secretary shall require as a condition to a State receiving an allotment under part C for a fiscal year ending before October 1, 1977, that the State provide the Secretary satisfactory assurances that not later than such date (1) the State will have in effect a system to protect and advocate the rights of persons with development disabilities, and (2) such system will (A) have the authority to pursue legal, administrative, and other appropriate remedies to insure the protection of the rights of such persons who are receiving treatment, services, or habilitation within the State, and (B) be independent of any State agency which provides treatment, services, or habilitation to persons with developmental disabilities. The Secretary may not make an allotment under part C to a State for a fiscal year beginning after September 30, 1977, unless the State has in effect a system described in the preceding sentence.

"(b)(1) To assist States in meeting the requirements of subsection (a), the Secretary shall allot to the States the sums appropriated under paragraph (2). Such allotments shall be made in accordance with subsections (a)(1)(A) and (d) of section 132.

"(2) For allotments under paragraph (1), there are authorized to be appropriated $3,000,000 for fiscal year 1976, $3,000,000 for fiscal year 1977, and $3,000,000 for fiscal year 1978."

STUDIES AND RECOMMENDATIONS

SEC. 204. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall conduct or arrange for the conduct of the following:

(1) A review and evaluation of the standards and quality

assurance mechanisms applicable to residential facilities and community agencies under the Rehabilitation Act of 1973, titles I and VI of the Elementary and Secondary Education Act of 1965, titles XVIII, XIX, and XX of the Social Security Act, and any other Federal law administered by the Secretary. Such standards and mechanisms shall be reviewed and evaluated (A) for their effectiveness in assuring the rights, described in section 111 of the Act, of persons with developmental disabilities, (B) for their effectiveness in insuring that services rendered by such facilities and agencies to persons with developmental disabilities are consistent with current concepts of quality care concerning treatment, services, and habilitation of such persons, (C) for conflicting requirements, and (D) for the relative effectiveness of their enforcement and the degree and extent of their effectiveness.

(2) The development of recommendations for standards and quality assurance mechanisms (including enforcement mechanisms) for residential facilities and community agencies providing treatment, services, or habilitation for persons with developmental disabilities which standards and mechanisms will assure the rights stated in section 111 of the Act. Such recommendations shall be based upon performance criteria for measuring and evaluating the developmental progress of persons with developmental disabilities which criteria are consistent with criteria used in the evaluation system developed under section 110 of the Act.

(3) The development of recommendations for changes in Federal law and regulations administered by the Secretary after taking into account the review and evaluation under paragraph (1) and the recommended standards or mechanisms developed under paragraph (2).

(b)(1) The Secretary may in consultation with the National Advisory Council on Services and Facilities for the Developmentally Disabled, obtain (through grants or contracts) the assistance of public and private entities in carrying out subsection (a).

(2) In carrying out subsection (a), the Secretary shall consult with appropriate public and private entities and individuals for the purpose of receiving their expert assistance, advice, and recommendations. Such agencies and individuals shall include persons with developmental disabilities, representative of such individuals, the appropriate councils of the Joint Commission on Accreditation of Hospitals, providers of health care, and State agencies. Persons to be consulted shall include the following officers of the Department of Health, Education, and Welfare: The Commissioner of the Medical Services Administration, the Commissioner of the Rehabilitation Services Administration, the Deputy Commissioner of the Bureau of Education for the Handicapped, the Assistant Secretary for Human Development,

the Commissioner of the Community Services Administration, and the Commissioner of the Social Security Administration.

(c) The Secretary shall within eighteen months after the date of enactment of this Act complete the review and evaluation and development of recommendations prescribed by subsection (a) and shall make a report to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives on such review and evaluation and recommendations.

TITLE III—MISCELLANEOUS

REPORT AND STUDY

SEC. 301. (a) The Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") shall, in accordance with section 101(7) of the Act (defining the term "developmental disability") (as amended by title I of this Act), determine the conditions of persons which should be included as developmental disabilities for purposes of the programs authorized by title I of the Act. Within six months of the date of enactment of this Act the Secretary shall make such determination and shall make a report thereon to the Congress specifying the conditions which he determined should be so included, the conditions which he determined should not be so included, and the reasons for each such determination. After making such report, the Secretary shall periodically, but not less often than annually, review the conditions not so included as developmental disabilities to determine if they should be so included. The Secretary shall report to the Congress the results of each such review.

(b)(1) The Secretary shall contract for the conduct of an independent objective study to determine (A) if the basis of the definition of the developmental disabilities (as amended by title I of this Act) with respect to which assistance is authorized under such title is appropriate and, to the extent that it is not, to determine an appropriate basis for determining which disabilities should be included and which disabilities should be excluded from the definition, and (B) the nature and adequacy of services provided under other Federal programs for persons with disabilities not included in such definition.

(2) A final report giving the results of the study required by paragraph (1) and providing specifications for the definition of Developmental disabilities for purposes of title I of the Act shall be submitted by the organization conducting the study to the Committee on Inter-State and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate not later than eighteen months after the date of enactment of this Act.

CONFORMING AMENDMENTS

SEC. 302. (a) Sections 134, 137, 138, 140, 141, and 142 of the Act are redesignated as sections 133, 134, 135, 136, 137, and 138, respectively.

(b)(1) Section 132 of the Act is amended by striking out "134" each place it occurs and inserting in lieu thereof "133".

(2) Section 133(b)(1) is amended by striking out "141" and inserting in lieu thereof "137".

(3) Section 135 of the Act (as so redesignated) is amended (A) by striking out "134" each place it occurs and inserting in lieu thereof "133", and (B) by striking out "136" in subsection (b) and inserting in lieu thereof "135".

(4) Section 136 of the Act (as so redesignated) is amended by striking out "134" each place it occurs and inserting in lieu thereof "133".

(5) Section 138 of the Act (as so redesignated) is amended (A) by striking out "134" and inserting in lieu thereof "133", and (B) by striking out "136" and inserting in lieu thereof "135".

(c) Sections 100 and 130 of the Act and title IV of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 are repealed.

EFFECTIVE DATE

SEC. 303. The amendments made by this Act shall take effect with respect to appropriations under the Act for fiscal years beginning after June 30, 1975.

Approved October 4, 1975.

P.L. 94-63—SPECIAL HEALTH REVENUE SHARING ACT OF 1975

HEMOPHILIA PROGRAMS

SEC. 606. Title XI of the Public Health Service Act is amended by adding after part C the following new part:

"Part D—Hemophilia Programs

"TREATMENT CENTERS

"SEC. 1131. (a) The Secretary may make grants to and enter into contracts with public and nonprofit private entities for projects for the establishment of comprehensive hemophilia diagnostic and treatment centers. A center established under this subsection shall provide—

"(1) access to the services of the center for all individuals suffering from hemophilia who reside within the geographic area served by the center;

"(2) programs for the training of professional and paraprofessional personnel in hemophilia research, diagnosis, and treatment;

"(3) a program for the diagnosis and treatment of individuals suffering from hemophilia who are being treated on an outpatient basis;

"(4) a program for association with providers of health care who are treating individuals suffering from hemophilia in areas not conveniently served directly by such center but who are more conveniently (as determined by the Secretary) served by it than by the next geographically closest center;

"(5) programs of social and vocational counseling for individuals suffering from the hemophilia; and

"(6) individualized written comprehensive care programs for each individual treated by or in association with such center.

"(b) No grant or contract may be made under subsection (a) unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such forms submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

"(c) An application for a grant or contract under subsection (a) shall contain assurances satisfactory to the Secretary that the applicant will serve the maximum number of individuals that its available and potential resources will enable it to effectively serve.

"(d) In considering applications for grants and contracts under subsection (a) for projects to establish hemophilia diagnostic and treatment centers, the Secretary shall—

"(1) take into account the number of persons to be served by the programs to be supported by such centers and the extent to which rapid and effective use will be made by such centers of funds under such grants and contracts, and

"(2) give priority to projects for centers which will operate in areas which the Secretary determines have the greatest number of persons in need of the services provided by such centers.

"(e) Contracts may be entered into under subsection (a) without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(f) There are authorized to be appropriated to make payments under grants and contracts under subsection (a) $3,000,000 for fiscal year 1976, and $4,000,000 for fiscal year 1977.

"BLOOD SEPARATION CENTERS

"SEC. 1132. (a) The Secretary may make grants to and enter into contracts with public and nonprofit private entities for projects to develop and expand, within existing facilities, blood-separation centers to separate and make available for distribution blood components to providers of blood services and manufacturers of blood fractions. For purposes of this section—

"(1) the term 'blood components' means those constituents of whole blood which are used for therapy and which are obtained by physical separation processes which result in licensed products such as red blood cells platelets, white blood cells, AHF-rich plasma, fresh-frozen plasma, cryoprecipitate, and single unit plasma for infusion; and

"(2) the term 'blood fractions' means those constituents of plasma which are used for therapy and which are obtained by licensed fractionation processes presently used in manufacturing which result in licensed products such as normal serum albumin, plasma, protein fraction, prothrombin complex, fibrinogen, AHF concentrate, immune serum globulin, and hyperimmune globulins.

"(b) In the event the Secretary finds that there is an insufficient supply of blood fractions available to meet the needs for treatment of persons suffering from hemophilia, and that public and other nonprofit private centers already engaged in the production of blood fractions could alleviate such insufficiency with assistance under this subsection, he may make grants not to exceed $500,000 to such centers for the purposes of alleviating the insufficiency.

"(c) No grant or contract may be made under subsection (a) or (b) unless an application therefor has been submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe.

"(d) Contracts may be entered into under subsection (a) without regard to section 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(e) For the purpose of making payments under grants and contracts under subsections (a) and (b), there are authorized to be appropriated $4,000,000 for fiscal year 1976, and $5,000,000 for fiscal year 1977.".

P.L. 93-270—SUDDEN INFANT DEATH SYNDROME ACT OF 1974

An Act to provide financial assistance for research activities for the study of sudden infant death syndrome, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

SHORT TITLE

SECTION 1. This Act may be cited as the "Sudden Infant Death Syndrome Act of 1974".

SUDDEN INFANT DEATH SYNDROME RESEARCH

SEC. 2. (a) Section 441 of the Public Health Service Act[1] is amended by striking out "an institute" and inserting in lieu thereof "the National Institute of Child Health and Human Development".

(b)(1) Such section 441[2] is further amended by inserting "(a)" after "Sec. 441." and by adding at the end thereof the following:

"(b) The Secretary shall carry out through the National Institute of Child Health and Human Development the purposes of section 301 with respect to the conduct and support of research which specifically relates to sudden infant death syndrome."

(2) Section 444 of such Act[3] is amended (1) by striking out "The Surgeon General" each place it occurs and inserting in lieu thereof "The Secretary", and (2) by striking out "the Surgeon General shall, with the approval of the Secretary" in the first sentence and inserting in lieu thereof "the Secretary shall, in accordance with section 441 (b),".

(c)(1) Within ninety days following the close of the fiscal year ending June 30, 1975, and the close of each of the next two fiscal years, the Secretary shall report to the Committees on Appropriations of the Senate and the House of Representatives and to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives the following information for such fiscal year:

(A) The (i) number of applications approved by the Secretary in the fiscal year reported on for grants and contracts under the Public Health Service Act for research which relates specifically to sudden infant death syndrome, (ii) total amount requested under such applications, (iii) number of such applications for which funds were provided in such fiscal year, and (iv) total amount of such funds.

(B) The (i) number of applications approved by the Secretary in such fiscal year for grants and contracts under the Public Health Service Act for research which relates generally to sudden infant death syndrome, (ii) total amount requested under such applications, (iii) number of such applications for which funds were provided in such fiscal year, and (iv) total amount of such funds.

Each such report shall contain an estimate of the need for additional funds for grants or contracts under the Public Health Service Act for research which relates specifically to sudden infant death syndrome.

(2) Within five days after the Budget is transmitted by the President to the Congress for the fiscal year ending June 30, 1976, and for each of the next two fiscal years, the Secretary shall transmit to the Committees on Appropriations of the House of Representatives and the Senate, the Committee on Labor and Public Welfare of the Senate, and the Committee on Interstate and Foreign Commerce of the House of Representatives an estimate of the amount requested for the National Institutes of Health for research relating to sudden infant death syndrome and a comparison of that amount with the amount requested for the preceding fiscal year.

COUNSELING, INFORMATION, EDUCATIONAL AND STATISTICAL PROGRAMS

SEC. 3. (a) Title XI of the Public Health Service Act[4] is amended by adding at the end thereof the following new part:

"PART C—SUDDEN INFANT DEATH SYNDROME

"SUDDEN INFANT DEATH SYNDROME COUNSELING, INFORMATION, EDUCATIONAL, AND STATISTICAL PROGRAMS

"SEC. 1121. (a) The Secretary, through the Assistant Secretary for Health, shall carry out a program to develop public information and professional educational materials relating to sudden infant death syndrome and to disseminate such information and materials to persons providing health care, to public safety officials, and to the public generally.

"(b)(1) The Secretary may make grants to public and nonprofit private entities, and enter into contracts with public and private entities, for projects which include both—

"(A) the collection, analysis, and furnishing of information (derived from postmortem examinations and other means) relating to the causes of sudden infant death syndrome; and

"(B) the provision of information and counseling to families affected by sudden infant death syndrome.

"(2) No grant may be made or contract entered into under this subsection unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information as the Secretary shall by regulation prescribe. Each application shall—

"(A) provide that the project for which assistance under this subsection is sought will be administered by or under supervision of the applicant;

"(B) provide for appropriate community representation in the development and operation of such project;

"(C) set forth such fiscal controls and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this subsection; and

"(D) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

"(3) Payments under grants under this subsection may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary.

"(4) Contracts under this subsection may be entered into without regard to sections 3648 through 3709 of the Revised Statutes (31 U.S.C. 529; 44 U.S.C. 5).

"(5) For the purpose of making payments pursuant to grants and contracts under this subsection, there are authorized to be appropriated $2,000,000 for the fiscal year ending June 30, 1975, $3,000,000 for the fiscal year ending June 30, 1976, and $4,000,000 for the fiscal year ending June 30, 1977.

"(c) The Secretary shall submit, not later than January 1, 1976, a comprehensive report to the Committee on Labor and Public Welfare of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives respecting the administration of this section and the results obtained from the programs authorized by it."

(b) The title of such title XI[5] is amended by adding at the end thereof "AND SUDDEN INFANT DEATH SYNDROME".

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[1] 42 U.S.C.A. § 289d.

[2] 42 U.S.C.A. § 289d(a), (b).

[3] 42 U.S.C.A. § 289g.

[4] 42 U.S.C.A. § 300c-11.

[5] 42 U.S.C.A. § prec. 300b.

P.L. 93-112—REHABILITATION ACT OF 1973

DECLARATION OF PURPOSE

SEC. 2. The purpose of this Act is to provide statutory basis for the Rehabilitation Services Administration, and to authorize programs to—

(1) develop and implement comprehensive and continuing State plans for meeting the current and future needs for providing vocational rehabilitation services to handicapped individuals and to provide such services for the benefit of such individuals, serving first those with the most severe handicaps, so that they may prepare for and engage in gainful employment;

(2) evaluate the rehabilitation potential of handicapped individuals;

(3) conduct a study to develop methods of providing rehabilitation services to meet the current and future needs of handicapped individuals for whom a vocational goal is not possible or feasible so that they may improve their ability to live with greater independence and self-sufficiency;

(4) assist in the construction and improvement of rehabilitation facilities;

(5) develop new and innovative methods of applying the most advanced medical technology, scientific achievement, and psychological and social knowledge to solve rehabilitation problems and develop new and innovative methods of providing rehabilitation services to handicapped individuals through research, special projects, and demonstrations;

(6) initiate and expand services to groups of handicapped individuals (including those who are homebound or institutionalized) who have been underserved in the past;

(7) conduct various studies and experiments to focus on long neglected problem areas;

(8) promote and expand employment opportunities in the public and private sectors for handicapped individuals and to place such individuals in employment;

(9) establish client assistance pilot projects;

(10) provide assistance for the purpose of increasing the number of rehabilitation personnel and increasing their skills through training; and

(11) evaluate existing approaches to architectural and transportation barriers confronting handicapped individuals, develop new such approaches, enforce statutory and regulatory standards and requirements regarding barrier-free construction of public facilities and study and develop solutions to existing architectural and transportation barriers impeding handicapped individuals.

DEFINITIONS

SEC. 7. For the purposes of this Act:

(1) The term "construction" means the construction of new buildings, the acquisition, expansion, remodeling, alteration, and renovation of existing buildings, and initial equipment of such buildings, and the term "cost of construction" includes architects' fees and acquisition of land in connection with construction but does not include the cost of offsite improvements.

(2) The term "criminal act" means any crime, including an act, omission, or possession under the laws of the United States or a State or unit of general local government which poses a substantial threat of personal injury, notwithstanding that by reason of age, insanity, intoxication or otherwise the person engaging in the act, omission, or possession was legally incapable of committing a crime.

(3) The term "establishment of a rehabilitation facility" means the acquisition, expansion, remodeling, or alteration of existing buildings necessary to adapt them to rehabilitation facility purposes or to increase their effectiveness for such purposes (subject, however, to such limitations as the Secretary may determine, in accordance with regulations he shall prescribe, in order to prevent impairment of the objectives of, or duplication of, other Federal laws providing Federal assistance in the construction of such facilities), and the initial equipment for such buildings, and may include the initial staffing thereof.

(4) The term "evaluation of rehabilitation potential" means, as appropriate in each case:

(A) a preliminary diagnostic study to determine that the individual has a substantial handicap to employment, and that vocational rehabilitation services are needed;

(B) a diagnostic study consisting of a comprehensive evaluation of pertinent medical, psychological, vocational, educational, cultural, social, and environmental factors which bear on the individual's handicap to employment and rehabilitation potential, including, to the degree needed, an evaluation of the individuals personality, intelligence level, educational achievements, work experience, vocational aptitudes and interests, personal and social adjustments, employment opportunities, and other pertinent data helpful in determining the nature and scope of services needed;

(C) an appraisal of the individual's patterns of work behavior and ability to acquire occupational skill, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns suitable for successful job performance, including the utilization of work, simulated or real, to assess and develop the individual's capacities to perform adequately in a work environment;

(D) any other goods or services provided for the purpose of ascertaining the nature of the handicap and whether it may reasonably be expected that the individual can benefit from vocational rehabilitation services;

(E) referral;

(F) the administration of these evaluation services; and

(G)(i) the provision of vocational rehabilitation services to any individual for a total period not in excess of eighteen months for the purpose of determining whether such individual is a handicapped individual, a handicapped individual for whom a vocational goal is not possible or feasible (as determined in accordance with section 102(c)), or neither such individual; and (ii) an assessment, at least once in every ninety-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (i) may be made.

(5) The term "Federal share" means 80 per centum, except that it shall mean 90 per centum for the purposes of part C of title I of this Act and as specifically set forth in section 301(b)(3): *Provided*, That with respect to payments pursuant to part B of title I of this Act to any State which are used to meet the costs of construction of those rehabilitation facilities identified in section 103(b) (2) in such State, the Federal share shall be the percentages determined in accordance with the provisions of section 301(b)(3) applicable with respect to that State and that, for the purpose of determining the non-Federal share with respect to any State, expenditures by a political subdivision thereof or by a local agency shall, subject to such limitations and conditions as the Secretary shall by regulation prescribe, be regarded as expenditures by such State.

(6) The term "handicapped individual" means any individual who (A) has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment and (B) can reasonably be expected to benefit in terms of employability from vocational rehabilitation services provided pursuant to titles I and III of this Act.

(7) The term "local agency" means an agency of a unit of general local government or of an Indian tribal organization (or combination of such units or organizations) which has an agreement with the State agency designated pursuant to section 101(a)(1) to conduct a vocational rehabilitation program under the supervision of such State agency in accordance with the State plan approved under section 101. Nothing in the preceding sentence of this paragraph or in section 101 shall be construed to prevent the local agency from utilizing another local public or nonprofit agency to provide vocational rehabilitation services: *Provided*, That such an arrangement is made part of the agreement specified in this paragraph.

(8) The term "nonprofit", when used with respect to a rehabilitation facility, means a rehabilitation facility owned and

operated by a corporation or association, no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual and the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

(9) The term "public safety officer" means a person serving the United States or a State or Unit of general local government, with or without compensation, in any activity pertaining to—

(A) the enforcement of the criminal laws, including highway patrol, or the maintenance of civil peace by the National Guard or the Armed Forces,

(B) a correctional program, facility, or institution where the activity is potentially dangerous because of contact with criminal suspects, defendants, prisoners, probationers, or parolees,

(C) a court having criminal or juvenile delinquent jurisdiction where the activity is potentially dangerous because of contact with criminal suspects, defendants prisoners, probationers, or parolees, or

(D) firefighting, fire prevention, or emergency rescue missions.

(10) The term "rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to handicapped individuals, and which provides singly or in combination one or more of the following services for handicapped individuals: (A) vocational rehabilitation services which shall include, under one management, medical, psychological, social, and vocational services, (B) testing, fitting, or training in the use of prosthetic and orthotic devices, (C) prevocational conditioning or recreational therapy, (D) physical and occupational therapy, (E) speech and hearing therapy, (F) psychological and social services, (G) evaluation of rehabilitation potential, (H) personal and work adjustment, (I) vocational training with a view toward career advancement (in combination with other rehabilitation services), (J) evaluation or control of specific disabilities, (K) orientation and mobility services to the blind, and (L) extended employment for those handicapped individuals who cannot be readily absorbed in the competitive labor market, except that all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to prescribe or supervise the provision of such services in the State.

(11) The term "Secretary", except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

(12) The term "severe handicap" means the disability which requires multiple services over an extended period of time and results from amputation, blindness, cancer, cerebral palsy, cystic fibrosis, deafness, heart disease, hemiplegia, mental retardation, mental illness, multiple sclerosis, muscular dystrophy,

neurological disorders (including stroke and epilepsy), paraplegia, quadriplegia and other spinal cord conditions, renal failure, respiratory or pulmonary dysfunction, and any other disability specified by the Secretary in regulations he shall prescribe.

(13) The term "State" includes the District of Columbia, the Virgin Islands, Puerto Rico, Guam, American Samoa, and the Trust Territory of the Pacific Islands, and for the purposes of American Samoa and the Trust Territory of the Pacific Islands, the appropriate State agency designated as provided in section 101(a)(1) shall be the Governor of American Samoa or the High Commissioner of the Trust Territory of the Pacific Islands, as the case may be.

(14) The term "vocational rehabilitation services" means those services identified in section 103 which are provided to handicapped individuals under this Act.

P.L. 92-603—SOCIAL SECURITY ACT AMENDMENTS OF 1972

USE OF STATE HEALTH AGENCY TO PERFORM CERTAIN FUNCTIONS UNDER MEDICAID AND UNDER MATERNAL AND CHILD HEALTH PROGRAM

SEC. 239. (a) Section 1902(a)(9) of the Social Security Act is amended to read as follows:

"(9) provide—

"(A) that the State health agency, or other appropriate State medical agency (whichever is utilized by the Secretary for the purpose specified in the first sentence of section 1864(a)), shall be responsible for establishing and maintaining health standards for private or public institutions in which recipients of medical assistance under the plan may receive care or services, and

"(B) for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards, other than those relating to health, for such institutions ;".

(b) Section 1909(a) of such Act (as amended by section 236(b) of this Act) is further amended—

(1) by striking out "and" at the end of paragraph (31);

(2) by striking out the period at the end of paragraph (32) and insetting in lieu thereof "; and"; and

(3) by inserting after paragraph (32) the following new paragraph:

"(33) provide—

"(A) that the State health agency, or other appropriate State medical agency, shall be responsible for establishing a plan, consistent with regulations prescribed by the Secretary, for the review by appropriate professional health personnel of the appropriateness and quality of care and services furnished to recipients of medical assistance under the plan in order to provide guidance with respect thereto in the administration of the plan to the State agency established or designated pursuant to paragraph (5) and, where applicable, to the State agency described in the last sentence of this subsection; and

"(B) that the State or local agency utilized by the Secretary for the purpose specified in the first sentence of section 1864(a), or, if such agency is not the State agency which is responsible for licensing health institutions, the State agency responsible for such licensing, will perform for the State agency administering or supervising the administration of the plan approved under this title the function of determining whether institutions and agencies meet the requirements for participation in the program under such plan."

(c) Section 505 (a) of such Act is amended—

(1) by striking out "and" at the end of paragraph (13);

(2) by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (14) the following new paragraph:

"(15) provides—

"(A) that the State health agency, or other appropriate State medical agency, shall be responsible for establishing a plan, consistent with regulations prescribed by the Secretary, for the review by appropriate professional health personnel of the appropriateness and quality of care and services furnished to recipients of services under the plan and, where applicable, for providing guidance with respect thereto to the other State agency referred to in paragraph (2); and

"(B) that the State or local agency utilized by the Secretary for the purpose specified in the first sentence of section 1864(a), or, if such agency is not the State agency which is responsible for licensing health institutions, the State agency responsible for such licensing, will perform the function of determining whether institutions and agencies meet the requirements for participation in the program under the plan under this title."

(d) The amendments made by this section shall be effective January 1, 1973 (or earlier if the State plan so provides).

PENALTIES FOR FRAUDULENT ACTS AND FALSE REPORTING UNDER MEDICARE AND MEDICAID

SEC. 242. (a) Section 1872 of the Social Security bet is amended by striking out "208,".

(b) Title XVIII of the Social Security Act is amended by adding at the end thereof (after the new section added by section 226(a) of this Act) the following new section:

"PENALTIES

"SEC. 1877. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit or payment,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(b) Whoever furnishes items or services to an individual for which payment is or may be made under this title and who solicits, offers, or receives any—

"(1) kickback or bribe in connection with the furnishing of such items or services or the making or receipt of such payment, or

"(2) rebate of any fee or charge for referring any such individual to another person for the furnishing of such items or services,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing facility or home health agency (as those terms are defined in section 1861), shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $2,000 or imprisoned for not more than 6 months, or both."

(c) Title XIX of such Act is amended by adding after section 1908 the following new section:

"PENALTIES

"SEC. 1909. (a) Whoever—

"(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under a State plan approved under this title,

"(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to such benefit or payment,

"(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit or payment, or (B) the initial or continued right to any such benefit or payment of any other individual in whose behalf he has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized, or

"(4) having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person,

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(b) Whoever furnishes items or services to an individual for which payment is or may be made in whole or in part out of Federal funds under a State plan approved under this title and who solicits, offers, or receives any—

"(1) kickback or bribe in connection with the furnishing of such items or services or the making or receipt of such payment, or

"(2) rebate of any fee or charge for referring any such individual to another person for the furnishing of such items or services

shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(c) Whoever knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operation of any institution or facility in order that such institution or facility may qualify (either upon initial certification or upon recertification) as a hospital, skilled nursing home, intermediate care facility, or home health agency (as those terms are employed in this title) shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than $2,000 or imprisoned for not more than 6 months, or both."

(d) The provisions of amendments made by this section shall not be applicable to any acts, statements, or representations made or committed prior to the enactment of this Act.

EXTENSION OF TITLE V TO AMERICAN SAMOA AND THE TRUST TERRITORY OF THE PACIFIC ISLANDS

SEC. 272. (a) Section 1101(a)(1) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Such term when used in title V also includes American Samoa and the Trust Territory of the Pacific Islands."

(b) Section 1108(d) of such Act is amended by inserting, after "allot such smaller amount to Guam", the following: ", American Samoa, and the Trust Territory of the Pacific Islands".

(c) The amendments made by this section shall apply with respect to fiscal years beginning after June 30, 1971.

PENALTY FOR FAILURE TO PROVIDE CHILD HEALTH SCREENING SERVICES UNDER MEDICAID

SEC. 299F. Section 403 of the Social Security Act is amended by adding at the end thereof the following:

"(g) Notwithstanding any other provision of this section, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters in fiscal years beginning after June 30, 1974, be reduced by 1 per centum (calculated without regard to any reduction under section 403(f)) of such amount if such State s fails to—

"(1) inform all families in the State receiving aid to families with dependent children under the plan of the State approved under this part of the availability of child health screening services under the plan of such State approved under title XIX,

"(2) provide or arrange for the provision of such screening services in all cases where they are requested, or

"(3) arrange for (directly or through referral to appropriate agencies, organizations, or individuals) corrective treatment the need for which is disclosed by such child health screening services."

CHRONIC RENAL DISEASE CONSIDERED TO CONSTITUTE DISABILITY

SEC. 2991. Effective with respect to services provided on and after July 1, 1973, section 226 of the Social Security Act (as amended by section 201(b)(5) of this Act) is amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following new subsection:

"(e) Notwithstanding the foregoing provisions of this section, every individual who—

"(1) has not attained the age of 65;

"(2) (A) is fully or currently insured (as such terms are defined in section 214 of this Act), or (B) is entitled to monthly insurance benefits under title II of this Act, or (C) is the spouse or dependent child (as defined in regulations) of an individual who is fully or currently insured, or (D) is the spouse or dependent child (as defined in regulations) of an individual entitled to monthly insurance benefits under title II of this Act; and

"(3) is medically determined to have chronic renal disease and who requires hemodialysis or renal transplantation for such disease;

shall be deemed to be disabled for purposes of coverage under parts A and B of Medicare subject to the deductible, premium, and copayment provisions of title XVIII.

"(f) Medicare eligibility on the basis of chronic kidney failure shall begin with the third month after the month in which a course of renal dialysis is initiated and would end with the twelfth month after the month in which the person has a renal transplant or such course of dialysis is terminated.

"(g) The Secretary is authorized to limit reimbursement under Medicare for kidney transplant and dialysis to kidney disease treatment centers which meet such requirements as he may by regulation prescribe: *Provided*, That such requirements must include at least requirements for a minimal utilization rate for covered procedures and for a medical review board to screen the appropriateness of patients for the proposed treatment procedures."

P.L. 92-414—NATIONAL COOLEY'S ANEMIA CONTROL ACT

An Act to amend the Public Health Service Act to provide assistance for programs for the diagnosis prevention and treatment of and research in Cooley's anemia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

SHORT TITLE

SECTION 1. This Act may be cited as the "National Cooley's Anemia Control Act".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares—

(1) that Cooley's anemia is a debilitating, inheritable disease that afflicts thousands of American citizens and has been largely neglected;

(2) that efforts to prevent Cooley's anemia must be directed toward increased research in the cause and treatment of the disease, and the education, screening, and counseling of carriers of the trait;

(3) that programs to prevent Cooley's anemia must be based entirely upon the voluntary cooperation of the individuals involved; and

(4) that the attainment of better methods of prevention, diagnosis, and treatment of Cooley's anemia deserves the highest priority.

(b) In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act to establish a national program for the diagnosis, prevention, and treatment of, and research in, Cooley's anemia.

COOLEY'S ANEMIA PROGRAMS

SEC. 3. Title XI of the Public Health Service Act[1] is amended by adding after section 1106 the following:

"PART B—COOLEY'S ANEMIA PROGRAMS

"COOLEY'S ANEMIA SCREENING, TREATMENT, AND COUNSELING, RESEARCH, AND INFORMATION AND EDUCATION PROGRAMS

"SEC. 1111. (a)(1) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities, for projects for the establishment and operation, primarily through other existing health programs, of Cooley's anemia screening, treatment, and counseling programs.

"(2) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals, for projects for research in the diagnosis, treatment, and prevention of Cooley's anemia, including projects for the development of effective and inexpensive tests which will identify those who have the disease or carry the trait.

"(3) The Secretary shall carry out a program to develop information and educational materials relating to Cooley's anemia and to disseminate such information and materials to persons providing health care and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

"(b)(1) For the purpose of making payments pursuant to grants and contracts under subsection (a)(1), there are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

"(2) For the purpose of making payments pursuant to grants and contracts under subsection (a)(2), there are authorized to be appropriated $1,700,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

"(3) For the purpose of carrying out subsection (a)(3), there are authorized to be appropriated $1,000,000 for the fiscal year ending June 30, 1973, and for each of the next two fiscal years.

"VOLUNTARY PARTICIPATION

"SEC. 1112. The participation by any individual in any program or portion thereof under this part shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

"APPLICATIONS: ADMINISTRATION OF GRANT AND CONTRACT PROGRAMS

"SEC. 1113. (a) A grant under this part may be made upon application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each application shall—

"(1) provide that the programs and activities for which assistance under this part is sought will be administered by or under the supervision of the applicant;

"(2) provide for strict confidentiality of all test results, medical records, and other information regarding screening, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) consents to be released, or (B) statistical data compiled without reference to the identity of any such patient;

"(3) provide for appropriate community representation in the development and operation of any program funded by a grant under this part;

"(4) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(5) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

"(b) (1) In making any grant or contract under this title, the Secretary shall (A) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (B) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs.

"(2) The Secretary may make a grant under section 1111(a)(1) for a screening, treatment, and counseling program when he determines that the screening provided by such program will be done through an effective and inexpensive Cooley's anemia screening test.

"PUBLIC HEALTH SERVICE FACILITIES

"SEC. 1114. The Secretary shall establish a program within the Public Health Service to provide for voluntary Cooley's anemia screening, counseling, and treatment. Such program shall utilize effective and inexpensive Cooley's anemia screening tests, shall be made available through facilities of the Public Health Service to any person requesting screening, counseling, or treatment, and shall include appropriate publicity of the availability and voluntary nature of such programs.

"REPORTS

"SEC 1116. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this part.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary."

CONFORMING AMENDMENTS TO TITLE XI OF THE PUBLIC HEALTH SERVICE ACT

SEC. 4. Title XI of the Public Health Service Act[2] is amended—

(1) by striking out

"TITLE XI—SICKLE CELL ANEMIA PROGRAM"

and inserting in lieu thereof

"TITLE XI—GENETIC BLOOD DISORDERS

"PART A—SICKLE CELL ANEMIA PROGRAMS";

(2) by striking out paragraph (3) of section 1101(a);[3] and

(3) by striking out "title" each place it occurs in sections 1103, 1104, and 1106[4] and inserting in lieu thereof "part".

Approved August 29, 1972.

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[1] 42 U.S.C.A. § 300b et seq.

[2] 42 U.S.C.A. § 300b(a)(3).

[3] 42 U.S.C.A. §§ 300b-2, 300b-3 and 300b-5.

[4] 28 U.S.C.A. § 1491, 1st par.

P.L. 92-294—NATIONAL SICKLE CELL ANEMIA CONTROL ACT

An Act to amend the Public Health Service Act to provide for the control of sickle cell anemia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

SHORT TITLE

SECTION 1. This Act shall be cited as the "National Sickle Cell Anemia Control Act".

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds and declares—

(1) that sickle cell anemia is a debilitating, inheritable disease that afflicts approximately two million American citizens and has been largely neglected;

(2) that the disease is a deadly and tragic burden which is likely to strike one-fourth of the children born to parents who both bear the sickle cell trait;

(3) that efforts to prevent sickle cell anemia must be directed toward increased research in the cause and treatment of the disease, and the education, screening, and counseling of carriers of the sickle cell trait;

(4) that simple and inexpensive screening tests have been devised which will identify those who have the disease or carry the trait;

(5) that programs to control sickle cell anemia must be based entirely upon the voluntary cooperation of the individuals involved; and

(6) that the attainment of better methods of control, diagnosis, and treatment of sickle cell anemia deserves the highest priority.

(b) In order to preserve and protect the health and welfare of all citizens, it is the purpose of this Act to establish a national program for the diagnosis, control, and treatment of, and research in, sickle cell anemia.

AMENDMENTS TO PUBLIC HEALTH SERVICE ACT

SEC. 3. (a) Section 1 of the Public Health Service Act[1] is amended by striking out "titles I to X" and inserting in lieu thereof "titles I to XI".

(b) The Act of July 1, 1944 (58 Stat. 682), as amended,[2] is amended by renumbering title XI (as in effect prior to the enactment of this Act) as title XII, and by renumbering sections 1101 through 1114 (as in effect prior to the enactment of this Act), and references thereto, as sections 1201 through 1214, respectively.

(c) The Public Health Service Act is further amended by adding after title X the following new title:

"TITLE XI—SICKLE CELL ANEMIA PROGRAM

"SICKLE CELL ANEMIA SCREENING AND COUNSELING PROGRAMS AND INFORMATION AND EDUCATION PROGRAMS

"SEC. 1101. (a)(1) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities, for projects for the establishment and operation of voluntary sickle cell anemia screening and counseling programs, primarily through other existing health programs.

"(2) The Secretary shall carry out a program to develop information and educational materials relating to sickle cell anemia and to disseminate such information and materials to persons providing health care and to the public generally. The Secretary may carry out such program through grants to public and nonprofit private entities or contracts with public and private entities and individuals.

"(3) In making any grant or contract under this title, the Secretary shall (1) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (2) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $20,000,000 for the fiscal year ending June 30, 1973, $30,000,000 for the fiscal year ending June 30, 1974, and $35,000,000 for the fiscal year ending June 30, 1975.

"PROJECT GRANTS AND CONTRACTS

"SEC. 1102. (a) The Secretary may make grants to public and nonprofit private entities, and may enter into contracts with public and private entities and individuals, for projects for (1) research and research training in the diagnosis, treatment, and control of sickle cell anemia, (2) the development of programs to educate the public regarding the nature and inheritance of the sickle cell trait and sickle cell anemia, and (3) the development of sickle cell anemia counseling and testing programs and other programs for diagnosis, control, and treatment of sickle cell anemia.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1973, $10,000,000 for the fiscal year ending June 30, 1974, and $15,000,000 for the fiscal year ending June 30, 1975.

"VOLUNTARY PARTICIPATION

"SEC. 1103. The participation by any individual in any program or portion thereof under this title shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program.

"APPLICATIONS; ADMINISTRATION OF GRANT AND CONTRACT PROGRAMS

"SEC. 1104. (a) A grant under this title may be made upon application to the Secretary at such time, in such manner, containing and accompanied by such information, as the Secretary deems necessary. Each applicant shall—

"(1) provide that the programs and activities for which assistance under this title is sought will be administered by or under the supervision of the applicant;

"(2) provide for strict confidentiality of all test results, medical records, and other information regarding screening, counseling, or treatment of any person treated, except for (A) such information as the patient (or his guardian) consents to be released; or (B) statistical data compiled without reference to the identity of any such patient;

"(3) provide for appropriate community representation in the development and operation of any program funded by a grant under this title;

"(4) in the case of an application for a grant under section 1101(a)(1), provide assurances satisfactory to the Secretary that (A) the screening and counseling services to be provided under the program for which the application is made will be directed first to those persons who are entering their child-producing years, and secondly to children under the age of 7, and (B) appropriate arrangements have been made to provide counseling to persons found to have sickle cell anemia or the sickle cell trait;

"(5) set forth such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this title; and

"(6) provide for making such reports in such form and containing such information as the Secretary may reasonably require.

"(b) In making any grant or contract under this title, the Secretary shall (1) take into account the number of persons to be served by the program supported by such grant or contract and the extent to which rapid and effective use will be made of funds under the grant or contract; and (2) give priority to programs operating in areas which the Secretary determines have the greatest number of persons in need of the services provided under such programs.

"PUBLIC HEALTH SERVICE FACILITIES

"SEC. 1105. The Secretary shall establish a program within the Public Health Service to provide for voluntary sickle cell anemia screening, counseling, and treatment. Such program shall be made available through facilities of the Public Health Service to any person requesting screening, counseling, or treatment, and shall include appropriate publicity of the availability and voluntary nature of such programs.

"REPORTS

"SEC. 1106. (a) The Secretary shall prepare and submit to the President for transmittal to the Congress on or before April 1 of each year a comprehensive report on the administration of this title.

"(b) The report required by this section shall contain such recommendations for additional legislation as the Secretary deems necessary."

Approved May 16, 1972.

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[1] 42 U.S.C.A. § 201 note.

[2] 42 U.S.C.A. § 201 et seq.

P.L. 91-695—LEAD-BASED PAINT POISONING PREVENTION ACT

An Act to provide Federal financial assistance to help cities and communities to develop and carry out intensive local programs to eliminate the causes of lead-based paint poisoning and local programs to detect and treat incidents at such poisoning, to establish a Federal demonstration and research program to study the extent of the lead-based paint poisoning problem and the methods available for lead-based paint removal, and to prohibit future use of lead-based paint in Federal or federally assisted construction or rehabilitation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

This Act may be cited as the "Lead-Based Paint Poisoning Prevention Act".

TITLE I—GRANTS FOR THE DETECTION AND TREATMENT OF LEAD-BASED PAINT POISONING

GRANTS FOR LOCAL DETECTION AND TREATMENT OF LEAD-BASED PAINT POISONING

SEC. 101. (a) The Secretary of Health, Education, and Welfare (hereafter referred to in this title as the "Secretary") is authorized to make grants to units of general local government in any State for the purpose of assisting such units in developing and carrying out local programs to detect and treat incidents of lead-based paint poisoning.

(b) The amount of any such grant shall not exceed 75 per centum of the cost of developing and carrying out a local program, as approved by the Secretary, during a period of three years.

(c) A local program should include—

(1) educational programs intended to communicate the health danger and prevalence of lead-based paint poisoning among children of inner-city areas, to parents, educators, and local health officials;

(2) development and carrying out of intensive community testing programs designed to detect incidents of lead-based paint poisoning among community residents, and to insure prompt medical treatment for such afflicted individuals;

(3) development and carrying out of intensive followup programs to insure that identified cases of lead-based paint poisoning are protected against further exposure to lead-based paints in their living environment; and

(4) any other actions which will reduce or eliminate lead based paint poisoning.

(d) Each local program shall afford opportunities for employing the residents of communities or neighborhoods affected by lead-based paint poisoning, and for providing appropriate training, education, and any information which may be necessary to inform such residents of opportunities for employment in lead-based paint poisoning elimination programs.

TITLE II—GRANTS FOR THE ELIMINATION OF LEAD-BASED PAINT POISONING

Sec. 201. The Secretary of Health, Education, and Welfare is authorized to make grants to units of general local government in any State for the purpose of assisting such units in developing and carrying out programs that identify those areas that present a high risk to the health of residents because of the presence of lead-based paints on interior surfaces, and then to develop and carry out programs to eliminate the hazards of lead-based paint poisoning.

(a) A local program should include:

(1) development and carrying out of comprehensive testing programs to detect the presence of lead-based paints on surfaces of residential housing;

(2) the development and carrying out of a comprehensive program requiring the prompt elimination of lead-based paints from all interior surfaces, porches, and exterior surfaces to which children may be commonly exposed, of residential housing on which lead-based paints have been used as a surface covering, including those surfaces on which non-lead-based paints have been used to cover surfaces to which lead-based paints were previously applied; and

(3) any other actions which will reduce or eliminate lead based paint poisoning.

(b) Each such program shall—

(1) be consistent with the appropriate local program assisted under section 101, and

(2) afford, to the maximum extent feasible, opportunities for employing the residents of communities or neighborhoods affected by lead-based paint poisoning, and for providing appropriate training, education, and any information which may be necessary to inform such residents of opportunities for employment in lead-based paint elimination programs.

TITLE III—FEDERAL DEMONSTRATION AND RESEARCH PROGRAM

FEDERAL DEMONSTRATION AND RESEARCH PROGRAM

SEC. 301. The Secretary of Housing and Urban Development, in consultation with the Secretary of Health, Education, and Welfare, shall develop and carry out a demonstration and research program to determine the nature and extent of the problem of lead-based paint poisoning in the United States, particularly in urban areas, and the methods by which lead-based paint can most effectively be removed from interior surfaces, porches, and exterior surfaces to which children may be commonly exposed, of residential housing. Within one year after the date of the enactment of this Act the Secretary shall submit to the Congress a full and complete report of his findings and recommendations as developed pursuant to such program, together with a statement of any legislation which should be enacted, and any changes in existing law which should be made, in order to carry out such recommendations.

TITLE IV—PROHIBITION AGAINST FUTURE USE OF LEAD-BASED PAINT

PROHIBITION AGAINST USE OF LEAD-BASED PAINT IN FUTURE CONSTRUCTION AND REHABILITATION

SEC. 401. The Secretary of Health, Education, and Welfare shall take such steps and impose such conditions as may be necessary or appropriate to prohibit the use of lead-based paint in residential structures constructed or rehabilitated after the date of enactment of this Act by the Federal government, or with Federal assistance in any form.

TITLE V—GENERAL

DEFINITIONS

SEC. 501. As used in this Act—

(1) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

(2) the term "units of general local government" means (A) any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, (B) any combination of units of general local government in one or more States, (C) an Indian tribe, or (D) with respect to lead-based paint poisoning elimination activities in their urban areas, the territories and possessions of the United States; and

(3) the term "lead-based paint" means any paint containing more than 1 per centum lead by weight (calculated as lead metal) in the total nonvolatile content of liquid paints or in the dried film of paint already applied.

CONSULTATION WITH OTHER DEPARTMENTS AND AGENCIES

SEC. 502. In carrying out the authority under this Act, the

Secretary of Health, Education, and Welfare shall cooperate with and seek the advice of the heads of any other departments or agencies regarding any programs under their respective responsibilities which are related to, or would be affected by, such authority.

APPROPRIATIONS

SEC. 503. (a) There is hereby authorized to be appropriated to carry out the provisions of title I of this Act not to exceed $3,330,000 for the fiscal year 1971 and $6,660,000 for the fiscal year 1972.

(b) There is hereby authorized to be appropriated to carry out the provisions of title II of this Act not to exceed $5,000,000 for the fiscal year 1971 and $10,000,000 for the fiscal year 1972.

(c) There is hereby authorized to be appropriated to carry out the provisions of title III of this Act not to exceed $1,670,000 for the fiscal year 1971 and $3,340,000 for the fiscal year 1972.

(d) Any amounts appropriated under this section shall remain available until expended when so provided in appropriation Acts; and any amounts authorized for the fiscal year 1971 but not appropriated may be appropriated for the fiscal year 1972.

Approved January 13, 1971.

P.L. 91-517—DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES CONSTRUCTION AMENDMENTS OF 1970

DEMONSTRATION AND TRAINING GRANTS

SEC. 202. Part B of the Mental Retardation Facilities Construction Act is amended by redesignating sections 122, 123, 124, and 125 as sections 123, 124, 125, and 126, respectively, and by adding the following new section after section 121:

"DEMONSTRATION AND TRAINING GRANTS

"SEC. 122. (a) For the purposes of assisting institutions of higher education to contribute more effectively to the solution of complex health, education, and social problems of children and adults suffering from developmental disabilities, the Secretary may, in accordance with the provisions of this part, make grants to cover costs of administering and operating demonstration facilities and interdisciplinary training programs for personnel needed to render specialized services to persons with developmental disabilities, including established disciplines as well as new kinds of training to meet critical shortages in the care of persons with developmental disabilities.

"(b) For the purpose of making grants under this section, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1971; $17,000,000 for the fiscal year ending June 30, 1972; and $20,000,000 for the fiscal year ending June 3, 1973."

P.L. 90-248—SOCIAL SECURITY AMENDMENTS OF 1967

INCLUSION OF CHILD-WELFARE SERVICES IN TITLE IV

SEC. 240. (a) The heading of title IV of the Social Security Act is amended to read as follows:

"TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES"

(b) Title IV of such Act is further amended by inserting immediately after the heading of the title the following:

"Part A—Aid to Families with Dependent Children"

(c) Title IV of such Act is further amended by adding at the end thereof the following new part:

"Part B—Child Welfare Services

"APPROPRIATION

"SEC. 420. For the purpose of enabling the United States, through the Secretary, to cooperate with State public welfare agencies in establishing, extending, and strengthening child-welfare services, the following sums are hereby authorized to be appropriated: $55,000,000 for the fiscal year ending June 30, 1968, $100,000,000 for the fiscal year ending June 30, 1969, and $110,000,000 for each fiscal year thereafter.

"ALLOTMENTS TO STATES

"SEC. 421 The sum appropriated pursuant to section 420 for each fiscal year shall be allotted by the Secretary for use by cooperating State public welfare agencies which have plans developed jointly by the State agency and the Secretary, as follows: He shall allot $70,000 to each State, and shall allot to each State an amount which bears the same ratio to the remainder of the sum so appropriated for such year as the product of (1) the population of such State under the age of 21 and (2) the allotment percentage of such State (as determined under section 423) bears to the sum of the corresponding products of all the States.

"PAYMENTS TO STATES

"SEC. 422. (a) From the sums appropriated therefor and the allotment available under this part, the Secretary shall from time to time pay to each State—

"(1) that has a plan for child-welfare services which has been developed as provided in this part and which—

"(A) provides for coordination between the services provided under such plan and the services provided for dependent children under the State plan approved under part A of this title, with a view to provision of welfare and related services which will best promote the welfare of such children and their families, and

"(B) provides, with respect to day care services (including the provision of such care) provided under this title—

"(i) for cooperative arrangements with the State health authority and the State agency primarily responsible for State supervision of public schools to assure maximum utilization of such agencies in the provision of necessary health services and education for children receiving day care,

"(ii) for an advisory committee, to advise the State public welfare agency on the general policy involved in the provision of day care services under the plan, which shall include among its members representatives of other State agencies concerned with day care or services related thereto and persons representative of professional or civic or other public or nonprofit private agencies, organizations, or groups concerned with the provision of day care,

"(iii) for such safeguards as may be necessary to assure provision of day care under the plan only in cases in which it is in the best interest of the child and the mother and only in cases in which it is determined, under criteria established by the State, that a need for such care exists; and, in cases in which the family is able to pay part or all of the costs of such care, for payment of such fees as may be reasonable in the light of such ability,

"(iv) for giving priority, in determining the existence of need for such day care, to members of low-income or other groups in the population, and to geographical areas which have the greatest relative need for extension of such day care, and

"(v) that day care provided under the plan will be provided only in facilities (including private homes) which are licensed by the State, or approved (as meeting the standards established for such licensing) by the State agency responsible for licensing facilities of this type, and

"(vi) for the development and implementation of arrangements for the more effective involvement of the parent or parents in the appropriate care of the children and the improvement of the health and development of the child, and

"(2) that makes a satisfactory showing that the State is extending the provision of child-welfare services in the State, with priority being given to communities with the greatest need for such services after giving consideration to their relative financial need, and with a view to making available by July 1, 1975, in all political subdivisions of the State, for all children in need thereof, child-welfare services provided by the staff (which shall to the extent feasible be composed of trained child-welfare personnel) of the State public welfare agency or of the local agency participating in the administration of the plan in the political subdivision,

except that (effective July 1, 1969, or, if earlier, on the date as of which the modification of the State plan to comply with this requirement with respect to subprofessional staff is approved) such plan shall provide for the training and effective use of paid subprofessional staff with particular emphasis on the full-time or part-time employment of persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency, an amount equal to the Federal share (as determined under section 423) of the total sum expended under such plan (including the cost of administration of the plan) in meeting the costs of State, district, county, or other local child-welfare services, in developing State services for the encouragement and assistance of adequate methods of community child-welfare organizations in paying the costs of returning any runaway child who has not attained the age of eighteen to his own community in another State, and of maintaining such child until such return (for a period not exceeding fifteen days), in cases in which such costs cannot be met by the parents of such child or by any person, agency, or institution legally responsible for the support of such child. In developing such services for children, the facilities and experience of voluntary agencies shall be utilized in accordance with child-care programs and arrangements in the State and local communities as may be authorized by the State.

"(b) The method of computing and paying such amounts shall be as follows:

"(1) The Secretary shall, prior to the beginning of each period for which a payment is to be made, estimate the amount to be paid to the State for such period under the provisions of subsection (a).

"(2) From the allotment available therefor, the Secretary shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which he finds that his estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid to the State for such prior period under this section.

"ALLOTMENT PERCENTAGE AND FEDERAL SHARE

"SEC. 423. (a) The 'allotment percentage' for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States; except that (1) the allotment percentage shall in no case be less than 30 per centum or more than 70 per centum, and (2) the allotment percentage shall be 70 per centum in the case of Puerto Rico, the Virgin Islands, and Guam.

"(b) The 'Federal share' for any State for any fiscal year shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States, except that (1) in no case shall the Federal share be less than 33 1/3 per centum or more than 66 2/3 per centum, and (2) the Federal share shall be 66 2/3 per centum in the case of Puerto Rico, the Virgin Islands, and Guam.

"(c) The Federal share and the allotment percentage for each State shall be promulgated by the Secretary between July 1 and August 31 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning July 1 next succeeding such promulgation: *Provided*, That the Federal shares and allotment percentages promulgated under section 524(c) of the Social Security Act in 1966 shall be effective for purposes of this section for the fiscal years ending June 30, 1968, and June 30, 1969.

"(d) For purposes of this section, the term 'United States' means the fifty States and the District of Columbia.

"REALLOTMENT

"SEC. 424. The amount of any allotment to a State under section 4214 for any fiscal year which the State certifies to the Secretary will not be required for carrying out the State plan developed as provided in such section shall be available for reallotment from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines (1) have need in carrying out their State plans so developed for sums in excess of those previously allotted to them under that section and (2) will be able to use such excess amounts during such fiscal year. Such reallotments shall be made on the basis of the States plans so developed, after taking into consideration the population under the age of twenty-one, and the per capita income of each such State as compared with the population under the age of twenty-one, and the per capita income of all such States with respect to which such a determination by the Secretary has been made Any amount so reallotted to a State shall be deemed part of its allotment under section 421.

"DEFINITION

"SEC. 425. For purposes of this title, the term 'child-welfare services' means public social services which supplement, or substitute for, parental care and supervision for the purpose of (1) preventing or remedying, or assisting in the solution of problems which may result in the neglect, abuse exploitation, or delinquency of children, (2) protecting and caring for homeless, dependent, or neglected children, (3) protecting and promoting the welfare of children of working mothers, and (4) otherwise protecting and promoting the welfare of children, including the strengthening of their own homes where possible or, where needed, the provision of adequate care of children away from their homes in foster family homes or day-care or other child-care facilities.

"RESEARCH, TRAINING, OR DEMONSTRATION PROJECTS

"SEC. 426 (a) There are hereby authorized to be appropriated for each fiscal year such sums as the Congress may determine—

"(1) for grants by the Secretary—

"(A) to public or other nonprofit institutions of higher learning, and to public or other nonprofit agencies and organizations engaged in research or child-welfare activities for special research or demonstration projects in the field of child welfare which are of regional or national significance and for special projects for the demonstration of new methods or facilities which show promise of substantial contribution to the advancement of child welfare;

"(B) to State or local public agencies responsible for administering, or supervising the administration of, the plan under this part, for projects for the demonstration of the utilization of research (including findings resulting therefrom) in the field of child welfare in order to encourage experimental and special types of welfare services; and

"(C) to public or other nonprofit institutions of higher learning for special projects for training personnel for work in the field of child welfare, including traineeships with such stipends and allowances as may be permitted by the Secretary; and

"(2) for contracts or jointly financed cooperative arrangements with States and public and other organizations and agencies for the conduct of research, special projects, or demonstration projects relating to such matters.

"(b) Payments of grants or under contracts or cooperative arrangements under this section may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine; and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the grants, contracts, or other arrangements.

(d)(1) Subparagraphs (A) and (B) of section 422(a)(1) of the Social Security Act (as added by subsection (c) of this section) are redesignated as (B) and (C).

(2) So much of paragraph (1) of section 422(a) of such Act (as added by subsection (c) of this section) as precedes subparagraph (B) (as redesignated) is amended to read as follows:

"(1) that has a plan for child-welfare services which has been developed as provided in this part and which—

"(A) provides that (i) the State agency designated pursuant to section 402(a)(3) to administer or supervise the administration of the plan of the State approved under part A of this title will administer or supervise the administration of such plan for child welfare services and (ii) to the extent that child-welfare services are furnished by the staff of the State agency or local agency administering such plan for child-welfare services, the organizational unit in such State or local agency established pursuant to section 402(a)(15) will be responsible for furnishing such child-welfare services,"

(e)(1) Part 3 of title V of the Social Security Act is repealed on the date this Act is enacted.

(2) Part B of title IV of the Social Security Act (as added by subsection (c) of this section), and the amendments made by subsections (a) and (b) of this section, shall become effective on the date this act is enacted.

(3) The amendments made by paragraphs (1) and (2) of subsection (d) shall become effective July 1, 1969, except that (A) if all the date of enactment of this Act the agency of a State administering its plan for child-welfare services developed under part B of title IV of the Social Security Act is different from the agency of the State designated pursuant to section 402(a)(3) of such Act, so much of paragraph (1) of section 422(a) of such Act as precedes subparagraph (B) (as added by paragraph (2) of such subsection (d)) shall not apply with respect to such agencies but only so long as such agencies of the State are different, and (B) if on such date the local agency administering the plan of a State for child welfare services developed under part B of title IV of the Social Security Act is different from the local agency in such subdivision administering the plan of such State under part A of title IV of such Act, so much of such paragraph (1) as precedes

such subparagraph (B) shall not apply with respect to such local agencies but only so long as such local agencies are different.

(f) In the case of any State which has a plan developed as provided in part 3 of title V of the Social Security Act as in effect prior to the enactment of this Act—

(1) such plan shall be treated as a plan developed, as provided in part B of title IV of such Act, on the date this Act is enacted;

(2) any sums appropriated, allotted, or reallotted pursuant to part 3 of title V for the fiscal year ending July 30, 1968, shall be deemed appropriated, allotted, or reallotted (as the case may be) under part B of title IV of such Act for such fiscal year; and

(3) any overpayment or underpayment which the Secretary determines was made to the State under section 523 of the Social Security Act and with respect to which adjustment has not then already been made under subsection (b) of such section shall, for purposes of section 422 of such Act, be considered an overpayment or underpayment (as the case may be) made under section 422 of such Act.

(g) Any sums appropriated or grants made pursuant to section 526 of the Social Security Act (as in effect prior to the enactment of this Act) shall be deemed to have been appropriated or made (as the case may be) under section 426 of the Social Security Act (as added by subsection (c) of this section).

(h) Each State plan approved under title IV of the Social Security Act as in effect the day preceding the date of the enactment of this Act shall be deemed, without the necessity of any change in such plan, to have been conformed with the amendments made by subsections (a) and (b) of this section.

TITLE III—IMPROVEMENT OF CHILD HEALTH

CONSOLIDATION OF SEPARATE PROGRAMS UNDER TITLE V OF THE SOCIAL SECURITY ACT

SEC. 301. Effective with respect to fiscal years beginning after June 30, 1968, title V of the Social Security Act (as otherwise amended by this Act) is amended to read as follows:

"TITLE V—MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN'S SERVICES

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 501. For the purpose of enabling each State to extend and improve (especially in rural areas and in areas suffering from severe economic distress), as far as practicable under the conditions in such State,

"(1) services for reducing infant mortality and otherwise promoting the health of mothers and children; and

"(2) services for locating, and for medical, surgical, corrective, and other services and care for and facilities for diagnosis, hospitalization, and aftercare for, children who are crippled or who are suffering from conditions leading to crippling,

there are authorized to be appropriated $250,000,000 for the fiscal year ending June 30, 1969, $275,000,000 for the fiscal year ending June 30, 1970, $300,000,000 for the fiscal year ending June 30, 1971, $325,000,000 for the fiscal year ending June 30, 1972, and $350,000,000 for the fiscal year ending June 30, 1973, and each fiscal year thereafter.

"PURPOSES FOR WHICH FUNDS ARE AVAILABLE

"SEC. 502. Appropriations pursuant to section 501 shall be available for the following purposes in the following proportions:

"(1) In the case of the fiscal year ending June 30, 1969, and each of the next 3 fiscal years, (A) 50 percent of the appropriation for such year shall be for allotments pursuant to sections 503 and 504; (B) 40 percent thereof shall be for grants pursuant to sections 508, 509, and 510; and (C) 10 percent thereof shall be for grants, contracts, or other arrangements pursuant to sections 511 and 512.

"(2) In the case of the fiscal year ending June 30, 1973, and each fiscal year thereafter, (A) 90 percent of the appropriation for such years shall be for allotments pursuant to sections 503 and 504; and (B) 10 percent thereof shall be for grants, contracts, or other arrangements pursuant to sections 511 and 512.

Not to exceed 5 percent of the appropriation for any fiscal year under this section shall be transferred, at the request of the Secretary, from one of the purposes specified in paragraph (1) or (2) to another purpose or purposes so specified. For each fiscal year, the Secretary shall determine the portion of the appropriation, within the percentage determined above to be available for sections 503 and 504, which shall be available for allotment pursuant to section 503 and the portion thereof which shall be available for allotment pursuant to section 504. Notwithstanding the preceding provisions of this section, of the amount appropriated for any fiscal year pursuant to section 501, not less than 6 percent of the amount appropriated shall be available for family planning services from allotments under section 503 and for family planning services under projects under sections 508 and 512.

"ALLOTMENTS TO STATES FOR MATERNAL AND CHILD HEALTH SERVICES

"SEC. 503. The amount determined to be available pursuant to section 502 for allotments under this section shall be allotted for payments for maternal and child health services as follows:

"(1) One-half of such amount shall be allotted by allotting to each State $70,000 plus such part of the remainder of such one-half as he finds that the number of live births in such State bore to the total number of live births in the United States in the latest calendar year for which he has statistics.

"(2) The remaining one-half of such amount shall (in addition to the allotments under paragraph (1)) be allotted to the States from time to time according to the financial need of each State for assistance in carrying out its State plan, as determined by the Secretary after taking into consideration the number of live births in such State, except that not more than 25 percent of such one-half shall be available for grants to State agencies (administering or supervising the administration of a State plan approved under section 505), and to public or other nonprofit institutions of higher learning (situated in each State), for special projects of regional or national significance which may contribute to the advancement of maternal and child health.

"ALLOTMENTS TO STATES FOR CRIPPLED CHILDREN'S SERVICES

"SEC. 504. The amount determined to be available pursuant to section 502 for allotments under this section shall be allotted for payments for crippled children's services as follows:

"(1) One-half of such amount shall be allotted by allotting to each State $70,000 and allotting the remainder of such one-half according to the need of each State as determined by him after taking into consideration the number of crippled children in such State in need of the services referred to in paragraph (2) of section 501 and the cost of furnishing such services to them.

"(2) The remaining one-half of such amount shall (in addition to the allotments under paragraph (1)) be allotted to the States from time to time according to the financial need of each State for assistance in carrying out its State plan, as determined by the Secretary after taking into consideration the number of crippled children in each State in need of the services referred to in paragraph (2) of section 501 and the cost of furnishing such services to them; except that not more than 25 percent of such one-half shall be available for grants to State agencies (administering or supervising the administration of a State plan approved under section 505)), and to public or other nonprofit institutions of higher learning (situated in any State), for special projects of regional or national significance which may contribute to the advancement of services for crippled children.

"APPROVAL OF STATE PLANS

"SEC. 505. (a) In order to be entitled to payments from allotments under Section 501, a State must have a State plan for maternal and child health services and services for crippled children which—

"(1) provides for financial participation by the State;

"(2) provides for the administration of the plan by the State health agency or the supervision of the administration of the plan by the State health agency; except that in the case of those States which on July 1, 1967, provided for administration (or supervision thereof) of the State plan approved under section 513 (as in effect on such date) by a State agency other than the State health agency, the plan of such State may be approved under this section if it would meet the requirements of this subsection except for provision of administration (or supervision thereof) by such other agency for the portion of the plan relating to services for crippled children, and, in each such case, the portion of such plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this title;

"(3) provides such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient operation of the plan;

"(4) provides that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports;

"(5) provides for cooperation with medical, health, nursing, educational, and welfare groups and organizations and, with respect to the portion of the plan relating to services for crippled children, with any agency in such State charged with administering State laws providing for vocational rehabilitation of physically handicapped children;

"(6) provides for payment of the reasonable cost (as determined in accordance with standards approved by the Secretary and included in the plan) of inpatient hospital services provided under the plan;

"(7) provides, with respect to the portion of the plan relating to services for crippled children, for early identification of children in need of health care and services, and for health care and treatment needed to correct or ameliorate defects or chronic conditions discovered thereby, through provision of such periodic screening and diagnostic services and such treatment, care and other measures to correct or ameliorate defects or chronic conditions, as may be provided in regulations of the Secretary;

"(8) effective July 1, 1972, provides a program (carried out directly or through grants or contracts) of projects described in section 508 which offers reasonable assurance, particularly in areas with concentrations of low-income families, of satisfactorily helping to reduce the incidence of mental retardation and other handicapping conditions caused by complications associated with child bearing and of satisfactorily helping to reduce infant and maternal mortality;

"(9) effective July 1, 1972, provides a program (carried out directly or through grants or contracts) of projects described in section 509 which offers reasonable assurance, particularly in areas with concentrations of low-income families, of satisfactorily promoting the health of children and youth of school or preschool age;

"(10) effective July 1, 1972, provides a program (carried out directly or through grants or contracts) of projects described in section 510 which offers reasonable assurance, particularly in areas with concentrations of low-income families, of satisfactorily promoting the dental health of children and youth of school or preschool age;

"(11) provides for carrying out the purposes specified in section 501;

"(12) provides for the development of demonstration services (with special attention to dental care for children and family planning services for mothers) in needy areas and among groups in special need;

"(13) provides that, where payment is authorized under the plan for services which an optometrist is licensed to perform,

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the individual for whom such payment is authorized may, to the extent practicable, obtain such services from an optometrist licensed to perform such services except where such services are rendered in a clinic, or another appropriate institution, which does not have an arrangement with optometrists so licensed; and

"(14) provides that acceptance of family planning services provided under the plan shall be voluntary on the part of the individual to whom such services are offered and shall not be a prerequisite to eligibility for or the receipt of any service under the plan.

"(b) The Secretary shall approve any plan which meets the requirements of subsection (a).

"PAYMENTS

"SEC. 506. (a) From the sums appropriated therefor and the allotments available under section 503(1) or 504(1), as the case may be, the Secretary shall pay to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing July 1, 1968, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan with respect to maternal and child health services and services for crippled children, respectively.

"(b)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total stem of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

"(2) The Secretary shall then pay to the State, in such installments as he may determine, the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

"(3) Upon the making of an estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

"(c) The Secretary shall also from time to time make payments to the States from their respective allotments pursuant to section

503(2) or 504(2). Payments of grants under sections 503(2), 504(2), 508, 509, 510, and 511, and of grants, contracts, or other arrangements under section 512, may be made in advance or by way of reimbursement, and in such installments, as the Secretary may determine; and shall be made on such conditions as the Secretary finds necessary to carry out the purposes of the section involved.

"(d) The total amount determined under subsections (a) and (b) and the first sentence of subsection (c) for any fiscal year ending after June 30, 1968, shall be reduced by the amount by which the sum expended (as determined by the Secretary) from non-Federal sources for maternal and child health services and services for crippled children for such year is less than the sum expended from such sources for such services for the fiscal year ending June 30, 1968. In the case of any such reduction, the Secretary shall determine the portion thereof which shall be applied, and the manner of applying such reduction, to the amounts otherwise payable from allotments under section 503 or section 504.

"(e) Notwithstanding the preceding provisions of this section, no payment shall be made to any State thereunder from the allotments under section 503 or section 504 for any period after June 30, 1968, unless the State makes a satisfactory showing that it is extending the provision of services, including services for dental care for children and family planning for mothers, to which such State's plan applies in the State with a view to making such services available by July 1, 1975, to children and mothers in all parts of the State.

"OPERATION OF STATE PLANS

"SEC. 507. If the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this title, finds—

"(1) that the plan has been so changed that it no longer complies with the provisions of section 505; or

"(2) that in the administration of the plan there is a failure to comply substantially with any such provision;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure), until the Secretary is satisfied that there will no longer be any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

"SPECIAL PROJECT GRANTS FOR MATERNITY AND INFANT CARE

"SEC. 508. (a) In order to help reduce the incidence of mental retardation and other handicapping conditions caused by complications associated with childbearing and to help reduce infant and maternal mortality, the Secretary is authorized to make, from the sums available under clause (B) of paragraph (1) of section 502, grants to the State health agency of any State and, with the consent of such agency, to the health agency of any political subdivision of the State, and to any other public or nonprofit private agency, institution, or organization, to pay not to exceed 75 percent of the cost (exclusive of general agency overhead) of any project for the provision of—

"(1) necessary health care to prospective mothers (including, after childbirth, health care to mothers and their infants) who have or are likely to have conditions associated with childbearing or are in circumstances which increase the hazards to the health of the mothers or their infants (including those which may cause physical or mental defects in the infants), or

"(2) necessary health care to infants during their first year of life who have any condition or are in circumstances which increase the hazards to their health, or

"(3) family planning services, but only if the State or local agency determines that the recipient will not otherwise receive such necessary health care or services because he is from a low-income family or for other reasons beyond his control. Acceptance of family planning services provided under a project under this section (and section 512) shall be voluntary on the part of the individual to whom such services are offered and shall not be a prerequisite to the eligibility for or the receipt of any service under such project.

"(b) No grant may be made under this section for any project for any period after June 30, 1972.

"SPECIAL PROJECT GRANTS FOR HEALTH OF SCHOOL AND PRESCHOOL CHILDREN

"SEC. 509. (a) In order to promote the health of children and youth of school or preschool age, particularly in areas with concentrations of low-income families, the Secretary is authorized to make, from the sums available under clause (B) of paragraph (1) of section 502, grants to the State health agency of any State and (with the consent of such agency) to the health agency of any political subdivision of the State, to the State agency of the State administering or supervising the administration of the State plan approved under section 505, to any school of medicine (with appropriate participation by a school of dentistry), and to any teaching hospital affiliated with such a school, to pay not to exceed 75 percent of the cost of projects of a comprehensive nature for health care and services for children and youth of school age or for preschool children (to help them prepare to start school). No project shall be eligible for a grant under this section unless it provides (1) for the coordination of health care and services provided under it with, and utilization (to the extent feasible) of, other State or local health, welfare, and education programs for such children, (2) for payment of the reasonable cost (as determined in accordance with standards approved by the Secretary) of inpatient hospital services provided under the project, and (3) that any treatment, correction of defects, or aftercare provided under the project is available only to children who would not otherwise receive it because they are from low-income families or for other reasons beyond their control; and no such project for children and youth of school age shall be considered to be of a comprehensive nature for purposes of this section unless it includes (subject to the limitation in the preceding provisions of this sentence) at least such screening, diagnosis, preventive services, treatment, correction of defects, and aftercare, both medical and dental, as may be provided for in regulations of the Secretary.

"(b) No grant may be made under this section for any project for any period after June 30, 1972.

"SPECIAL PROJECT GRANTS FOR DENTAL HEALTH OF CHILDREN

"SEC. 510. (a) In order to promote the dental health of children and youth of school or preschool age, particularly in areas with concentrations of low-income families, the Secretary is authorized to make grants, from the sums available under clause (B) of paragraph (1) of section 502, to the State health agency of any State and (with the consent of such agency) to the health agency of any political subdivision of the State, and to any other public or nonprofit private agency, institution, or organization, to pay not to exceed 75 percent of the cost of projects of a comprehensive nature for dental care and services for children and youth of school age or for preschool children. No project shall be eligible for a grant under this section unless it provides that any treatment, correction of defects, or aftercare provided under the project is available only to children who would not otherwise receive it because they are from low-income families or for other reasons beyond their control, and unless it includes (subject to the limitation of the foregoing provisions of this sentence) at least such preventive services, treatment, correction of defects, and after care, for such age groups, as may be provided in regulations of the Secretary. Such projects may also include research looking toward the development of new methods of diagnosis or treatment, or demonstration of the utilization of dental personnel with various levels of training.

"(b) No grant may be made under this section for any project for any period after June 30, 1972.

"TRAINING OF PERSONNEL

"SEC. 511. From the sums available under clause (C) of paragraph (1) or clause (B) of paragraph (2) of section 502, the Secretary is authorized to make grants to public or nonprofit private institutions of higher learning for training personnel for health care and related services for mothers and children, particularly mentally retarded children and children with multiple handicaps. In making such grants, the Secretary shall give special attention to programs providing training at the undergraduate level.

"RESEARCH PROJECTS RELATING TO MATERNAL AND CHILD HEALTH SERVICES AND CRIPPLED CHILDREN'S SERVICES

"SEC. 512. From the sums available under clause (C) of paragraph (1) or clause (B) of paragraph (2) of section 502, the Secretary is authorized to make grants to or jointly financed cooperative arrangements with public or other nonprofit institutions of higher learning, and public or nonprofit private agencies and organizations engaged in research or in maternal and child health or crippled children's programs, and contracts with public or nonprofit private agencies and organizations engaged in research or in such programs, for research projects relating to maternal and child health services or crippled children's services which show promise of substantial contribution to the advancement thereof. Effective with respect to grants made and arrangements entered into after June 30, 1968, (1) special emphasis shall be accorded to projects which will help in studying the need for, and the feasibility, costs, and effectiveness of, comprehensive health care programs in which maximum use is made of health personnel with varying levels of training, and in studying methods of training for such programs, and (2) grants under this section may also include funds for the training of health personnel for work in such projects.

"ADMINISTRATION

"SEC. 513. (a) The Secretary of Health, Education, and Welfare shall make such studies and investigations as will promote the efficient administration of this title.

"(b) Such portion of the appropriations for grants under section 501 as the Secretary may determine, but not exceeding one-half of 1 percent thereof, shall be available for evaluation by the Secretary (directly or by grants or contracts) of the programs for which such appropriations are made and, in the case of allotments from any such appropriation, the amount available for allotments shall be reduced accordingly.

"(c) Any agency, institution, or organization shall, if and to the extent prescribed by the Secretary, as a condition to receipt of grants under this title, cooperate with the State agency administering or supervising the administration of the State plan approved under title XIX in the provision of care and services available under a plan or project under this title, for children eligible therefor under such plan approved under title XIX.

"DEFINITION

"SEC. 514. For purposes of this title, a crippled child is an individual under the age of 21 who has an organic disease, defect, or condition which may hinder the achievement of normal growth and development.

"OBSERVANCE OF RELIGIOUS BELIEFS

"SEC. 515. Nothing in this title shall be construed to require any State which has any plan or program approved under, or receiving financial support under, this title to compel any person to undergo any medical screening, examination, diagnosis, or treatment or to accept any other health care or services provided under such plan or program for any purpose (other than for the purpose of discovering and preventing the spread of infection or contagious disease or for the purpose of protecting environmental health), if such person objects (or, in case such person is a child, his parent or guardian objects) thereto on religious grounds."

CONFORMING AMENDMENTS

SEC. 302. (a) Section 1905(a)(4) of the Social Security Act is amended by inserting "(A)" after "(4)", and by inserting before the semicolon at the end thereof the following: "(B) effective July 1, 1969, such early and periodic screening and diagnosis of individuals who are eligible under the plan and are under the age of 21 to ascertain their physical or mental defects, and such health care, treatment, and other measures to correct or ameliorate defects and chronic conditions discovered thereby, as may be provided in regulations of the Secretary".

(b) Section 1902(a)(11) of such Act is amended by inserting "(A)" after "(11)", and by inserting before the semicolon at the end thereof the following: ", and (B) effective July 1, 1969, provide, to the extent prescribed by the Secretary, for entering into agreements, with any agency, institution, or organization receiving payments for part or all of the cost of plans or projects under title V, (i) providing for utilizing such agency, institution, or organization in furnishing care and services which are available under such plan or project under title V and which are included in the State plan approved under this section and (ii) making such provision as may be appropriate for reimbursing such agency, institution, or organization for the cost of any such care and services furnished any individual for which payment would otherwise be made to the State with respect to him under section 1903".

1968 AUTHORIZATION FOR MATERNITY AND INFANT CARE PROJECTS

SEC. 303. Section 531(a) of the Social Security Act is amended by striking out "and $30,000,000 for each of the next three fiscal years" and inserting in lieu thereof "$30,000,000 for each of the next 2 fiscal years, and $35,000,000 for the fiscal year ending June 30, 1968".

USE OF SUBPROFESSIONAL STAFF AND VOLUNTEERS

SEC. 304. (a) Section 505(a)(3) of the Social Security Act (as added by section 301 of this Act) is amended by—

(1) striking out "provides" and inserting in lieu thereof "provides (A)";

(2) adding at the end before the semicolon the following: "and (B) provides for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency".

(b) The amendment made by this section shall become effective July 1, 1969, or, if earlier (with respect to a State) on the date as of which the modification of the State plan to comply with such amendment is approved.

EXTENSION OF DUE DATE FOR CHILD MENTAL HEALTH REPORT

SEC. 305. Section 231(d) of the Social Security Amendments of 1965 (Public Law 89-97) is amended by striking out the word "two" and inserting in lieu thereof "three".

SHORT TITLE

SEC. 306. This title may be cited as the "Child Health Act of 1967".

P.L. 89-97—SOCIAL SECURITY ACT AMENDMENTS OF 1965

INCREASE IN MATERNAL AND CHILD HEALTH SERVICES

SEC. 201. (a) The first sentence of section 501 of the Social Security Act is amended by striking out "$40,000,000" and all that follows and inserting in lieu thereof "$45,000,000 for the fiscal year ending June 30, 1966, $50,000,000 for the fiscal year ending June 30, 1967, $55,000,000 for the fiscal year ending June 30, 1968, $55,000,000 for the fiscal year ending June 30, 1969, and $60,000,000 for the fiscal year ending June 30, 1970, and each fiscal year thereafter."

(b) Section 504 of such Act is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding the preceding provisions of this section, no payment shall be made to any State thereunder for any period after June 30, 1966, unless it makes a satisfactory showing that the State is extending the provision of maternal and child health services in the State with a view to making such services available by July 1, 1975, to children in all parts of the State."

INCREASE IN CRIPPLED CHILDREN'S SERVICES

SEC. 202. (a) The first sentence of section 511 of the Social Security Act is amended by striking out "$40,000,000" and all that follows and inserting in lieu thereof "$45,000,000 for the fiscal year ending June 30, 1966, $50,000,000 for the fiscal year ending June 30, 1967, $55,000,000 for the fiscal year ending June 30, 1968, $55,000,000 for the fiscal year ending June 30, 1969, and $60,000,000 for the fiscal year ending June 30, 1970, and each fiscal year thereafter."

(b) Section 514 of such Act is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding the preceding provisions of this subsection, no payment shall be made to any State thereunder for any period after June 30, 1966, unless it makes a satisfactory showing that the State. is extending the provision of crippled children's services in the State with a view to making such services available by July 1, 1975, to children in all parts of the State."

TRAINING OF PROFESSIONAL PERSONNEL FOR THE CARE OF CRIPPLED CHILDREN

SEC. 203. (a) Part 2 of title V of the Social Security Act is amended by adding at the end thereof the following new section:

"TRAINING OF PROFESSIONAL PERSONNEL

"SEC. 516. There are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1967, $10,000,000 for the fiscal year ending June 30, 1968, and $17,500,000 for each fiscal year thereafter, for grants by the Secretary to public or other nonprofit institutions of higher learning for training professional personnel for health and related care of crippled children, particularly mentally retarded children and children with multiple handicaps."

(b) The second sentence of section 514(c) of such Act is amended by striking out "section 512 (b)" and inserting in lieu thereof "section 512(b) or 516".

PAYMENT FOR INPATIENT HOSPITAL SERVICES

SEC. 204. (a) Section 503(a) of the Social Security Act is amended by striking out "and" before clause (7) and by inserting before the period at the end thereof the following new clause: "; and (8) effective July 1, 1967, provide for payment of the reasonable cost (as determined in accordance with standards approved by the Secretary and included in the plan) of inpatient hospital services provided under the plan".

(b) Section 513(a) of such Act is amended by striking out "and" before clause (6) and by inserting before the period at the end thereof the following new clause: "; and (7) effective July 1, 1967, provide for payment of the reasonable cost (as determined in accordance with standards approved by the Secretary and included in the plan) of inpatient hospital services provided under the plan".

SPECIAL PROJECT GRANTS FOR HEALTH OF SCHOOL AND PRESCHOOL CHILDREN

SEC. 205. Part 4 of title V of the Social Security Act is amended (1) by revising the heading thereof to read as follows: "PART 4—GRANTS FOR SPECIAL MATERNITY AND INFANT CARE PROJECTS, FOR PROJECTS FOR HEALTH OF SCHOOL AND PRESCHOOL CHILDREN, AND FOR RESEARCH PROJECTS; (2) by redesignating section 532 as section 533; and (3) by inserting after section 531 the following new section:

"SPECIAL PROJECT GRANTS FOR HEALTH OF SCHOOL AND PRESCHOOL CHILDREN

"SEC. 532. (a) In order to promote the health of children and youth of school or preschool age, particularly in areas with concentrations of low-income families, there are authorized to be appropriated $15,000,000 for the fiscal year ending June 30, 1966, $35,000,000 for the fiscal year ending June 30, 1967, $40,000,000 for the fiscal year ending June 30, 1968, $45,000,000 for the fiscal year ending June 30, 1969, and $50,000,000 for the fiscal year ending June 30, 1970, for grants as provided in this section.

"(b) From the sums appropriated pursuant to subsection (a), the Secretary is authorized to make grants to the State health agency of any State and (with the consent of such agency) to the health agency of any political subdivision of the State, to the State agency of the State administering or supervising the administration of the State plan approved under section 513, to any school of medicine (with appropriate participation by a school of dentistry), and to any teaching hospital affiliated with such a school, to pay not to exceed 75 per centum of the cost of projects of a comprehensive nature for health care and services for children and youth of school age or for preschool children (to help them prepare to start school). No project shall be eligible for a grant under this section unless it provides (1) for the coordination of health care and services provided under it with, and utilization (to the extent feasible) of, other State or local health, welfare, and education programs for such children, (2) for payment of the reasonable cost (as determined in accordance with standards approved by the Secretary) of inpatient hospital services provided under the project, and (3) that any treatment, correction of defects, or aftercare provided under the project is available only to children who would not otherwise receive it because they are from low-income families or for other reasons beyond their control; and no such project for children and youth of school age shall be considered to be of a comprehensive nature for purposes of this section unless it includes (subject to the limitation in the preceding provisions of this sentence) at least such screening, diagnoses, preventive services, treatment, correction of defects, and aftercare, both medical and dental, as may be provided for in regulations of the Secretary.

"(c) Payment of grants under this section may be made (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine."

EVALUATION AND REPORT

SEC. 206. The Secretary shall submit to the President for transmission to the Congress before July 1, 1969, a full report of the administration of the provisions of section 532 of the Social Security Act (as added by section 205 of this Act), together with an evaluation of the program established thereby and its recommendations as to continuation of and modifications in that program.

P.L. 88-156—MATERNAL AND CHILD HEALTH AND MENTAL RETARDATION PLANNING AMENDMENTS OF 1963

An Act to amend the Social Security Act to assist States and communities in preventing and combating mental retardation through expansion and improvement of the maternal and child health and crippled children's programs, through provision of prenatal, maternity, and infant care for individuals with conditions associated with childbearing which may lead to mental retardation, and through planning for comprehensive action to combat mental retardation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

This Act may be cited as the "Maternal and Child Health and Mental Retardation Planning Amendments of 1963".

INCREASE IN MATERNAL AND CHILD HEALTH SERVICES

SEC. 2. (a) The first sentence of section 501 of the Social Security Act[1] is amended by striking out "there is hereby authorized to be appropriated for each fiscal year beginning after June 30, 1960, the sum of $25,000,000" and inserting in lieu thereof "the following sums are hereby authorized to be appropriated: $25,000,000 for the fiscal year ending June 30, 1963, $30,000,000 for the fiscal year ending June 30, 1964, $35,000,000 for the fiscal year ending June 30, 1965, $40,000,000 each for the fiscal year ending June 30, 1966, and the succeeding fiscal year, $45,000,000 each for the fiscal year ending June 30, 1968, and the succeeding fiscal year, and $50,000,000 each for the fiscal year ending June 30, 1970, and succeeding fiscal years".

(b) Subsection (a) of section 502 of such Act[2] is amended to read as follows:

"(a) The Secretary shall allot one-half of the sum appropriated pursuant to section 501 for each fiscal year as follows: He shall allot to each State $70,000 and such part of the remainder of such one-half as he finds that the number of live births in such State bore to the total number of live births in the United States in the latest calendar year for which he has statistics."

(c)(1) The first sentence of subsection (b) of section 502 of such Act[3] is amended to read as follows: "The Secretary shall also allot to the States (in addition to the allotments made under subsection (a)) the remaining one-half of the sum appropriated for each fiscal year pursuant to section 501."

(2) The second sentence of such subsection (b) is amended by striking out "Such sums" and "such sums" and inserting in lieu thereof "Such one-half" and "such one-half", respectively.

INCREASF IN CRIPPLED CHILDREN'S SERVICES

SEC. 3. (a) The first sentence of section 511 of the Social Security Act[4] is amended by striking out "there is hereby authorized to be appropriated for each fiscal year beginning after June 30, 1960, the sum of $25,000,000" and inserting in lieu thereof "the following sums are hereby authorized to be appropriated: $25,000,000 for the fiscal year ending June 30, 1963, $30,000,000 for the fiscal year ending June 30, 1964, $35,000,000 for the fiscal year ending June 30, 1965, $40,000,000 each for the fiscal year ending June 30, 1966, and the succeeding fiscal year, $45,000,000 each for the fiscal year ending June 30, 1968, and the succeeding fiscal year, and $50,000,000 each for the fiscal year ending June 30, 1970, and succeeding fiscal years".

(b) So much of subsection (a) of section 512 of such Act[5] as ends with "$12,500,000 to the States" is amended to read as follows:

"(a) The Secretary shall allot one-half of the sum appropriated pursuant to section 511 for each fiscal year as follows: He shall allot to each State $70,000 and shall allot the remainder of such one-half to the States".

(c)(1) The first sentence of subsection (b) of section 512[6] of such Act is amended to read as follows: "The Secretary shall also allot to the States (in addition to the allotments made pursuant to subsection (a)) the remaining one-half of the sum appropriated for each fiscal year under section 511."

(2) The second sentence of such subsection (b) is amended by striking out "Such sums" and "such sums" and inserting in lieu thereof "Such one-half" and "such one-half" respectively.

PROJECT GRANTS

SEC. 4. Part 4 of title V of the Social Security Act is amended to read as follows:

"PART 4—GRANTS FOR SPECIAL MATERNITY AND INFANT CARE PROJECTS AND RESEARCH PROJECTS

"SPECIAL PROJECT GRANTS FOR MATERNITY AND INFANT CARE

"SEC. 531. (a) In order to help reduce the incidence of mental retardation caused by complications associated with childbearing, there are authorized to be appropriated $5,000,000 for the fiscal year ending June 30, 1964, $15,000,000 for the fiscal year ending June 30, 1965, and $30,000,000 for each of the next three fiscal years, for grants to assist in meeting the cost of projects as provided in this section.

"(b) From the sums appropriated pursuant to subsection (a), the Secretary is authorized to make grants to the State health agency of any State and, with the consent of such agency in the case of a project in which such agency is unable or unwilling to participate, to the health agency of any political subdivision of the State, to pay not to exceed 75 per centum of the cost (exclusive of general agency overhead) of any project for the provision of necessary health care to prospective mothers (including, after childbirth, health care to mothers and their infants) who have or are likely to have conditions associated with childbearing which increase the hazards to the health of the mothers or their infants (including those which may cause physical or mental defects in the infants) and whom the State or local health agency determines will not receive necessary health care because they are from low-income families or for other reasons beyond their control.

"(c) Payment of grants under this section may be made (after necessary adjustment on account of previously made underpayment or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine.

"RESEARCH PROJECTS RELATING TO MATERNAL AND CHILD HEALTH SERVICES AND CRIPPLED CHILDREN'S SERVICES

"Sec. 532. (a) There are authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1964, such sums, not exceeding $8,000,000 for any fiscal year, as the Congress may determine to enable the Secretary to make grants to or jointly financed cooperative arrangements with public or other nonprofit institutions of higher learning, and public or other nonprofit agencies and organizations engaged in research or in maternal and child health or crippled children's programs, and contracts with public or nonprofit private agencies and organizations engaged in research or in such programs, for research projects relating to maternal and child health services or crippled children's services which show promise of substantial contribution to the advancement thereof.

"(b) Payments of grants or under contracts or cooperative arrangements under this section may be made (after necessary adjustment, in the case of grants, on account of previously made underpayments or overpayments) in advance or by way of reimbursements, and in such installments and on such conditions, as the Secretary may determine."

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[1] 42 U.S.C.A. § 701.

[2] 42 U.S.C.A. § 702(a).

[3] 42 U.S.C.A. § 702(b).

[4] 42 U.S.C.A § 711.

[5] 42 U. S.C.A § 712(a).

[6] 42 U.S.C.A. § 712(b).

P.L. 85-840—SOCIAL SECURITY ACT AMENDMENTS OF 1958

MATERNAL AND CHILD HEALTH

SEC. 602. (a) Section 501 of such act is amended by striking out "for the fiscal year ending June 30, 1951, the sum of $15,000,000, and for each fiscal year beginning after June 30, 1951, the sum of $16,500,000" and inserting in lieu thereof "for each fiscal year beginning after June 30, 1958, the sum of $21,500,000".

(b) Section 502 (a)(2) of such Act is amended by striking out "for each fiscal year beginning after June 30, 1951, the Federal Security Administrator shall allot $8,250,000 as follows: He shall allot to each State $60,000 and shall allot to each State such part of the remainder of the $8,250,000" and inserting in lieu thereof "for each fiscal year beginning after June 30, 1958, the Secretary shall allot $10,750,000 as follows: He shall allot to each State $60,000 (even though the amount appropriated for such year is less than $21,500,000), and shall allot each State such part of the remainder of the $10,750,000".

(c) Section 502 (b) of such Act is amended by striking out "the fiscal year ending June 30, 1951, the sum of $7,500,000, and for each fiscal year beginning after June 30, 1951, the sum of $8,250,000" and inserting in lieu thereof "each fiscal year beginning after June 30, 1958, the sum of $10,750,000".

CRIPPLED CHILDREN'S SERVICES

SEC. 603. (a) Section 511 of such Act is amended by striking out "for the fiscal year ending June 30, 1951, the sum of $12,000,000, and for each fiscal year beginning after June 30, 1951, the sum of $15,000,000" and inserting in lieu thereof "for each fiscal year beginning after June 30, 1958, the sum of $20,000,000".

(b) Section 512 (a)(2) of such Act is amended by striking out "for each fiscal year beginning after June 30, 1951, the Federal Security Administrator shall allot $7,500,000 as follows: He shall allot to each State $60,000, and shall allot the remainder of the $7,500,000" and inserting in lieu thereof "for each fiscal year beginning after June 30, 1958, the Secretary shall allot $10,000,000 as follows: He shall allot to each State $60,000 (even though the amount appropriated for such year is less than $20,000,000) and shall allot the remainder of the $10,000,000".

(c) Section 512(b) of such Act is amended by striking out "the fiscal year ending June 30, 1951, the sum of $6,000,000, and for each fiscal year beginning after June 30, 1951, the sum of $7,500,000" and inserting in lieu thereof "each fiscal year beginning after June 30, 1958, the sum of $10,000,000".

P.L. 78-156—EMERGENCY MATERNITY AND INFANT CARE PROGRAM OF 1943

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending June 30, 1944, under the Children's Bureau, Department of Labor, namely:

Grants to States for emergency maternity and infant care (national defense): For an additional amount for grants to States, including Alaska, Hawaii, Puerto Rico, and the District of Columbia, to provide, in addition to similar services otherwise available, medical, nursing, and hospital maternity and infant care for wives and infants of enlisted men of the fourth, fifth, sixth, and seventh grades in the armed forces of the United States, under allotments by the Secretary of Labor and plans developed and administered by State health agencies and approved by the Chief of the Children's Bureau, $18,600,000: *Provided,* That this appropriation may be used for payments of commitments made prior to October 1, 1943, in the cases of wives and infants of enlisted men in grades one, two, and three.

Salaries and expenses, emergency maternity and infant care (national defense): For all necessary expenses of the Children's Bureau in performing the duties imposed upon it in carrying out the program for emergency maternity and infant care, including personal services in the District of Columbia and elsewhere, and other items otherwise chargeable to the appropriations of the Department of Labor for contingent expenses, traveling expenses, and printing and binding, $20,000.

Approved October 1, 1943.

P.L. 76-379—SOCIAL SECURITY ACT AMENDMENTS OF 1939

TITLE V—AMENDMENTS TO TITLES V AND VI OF THE SOCIAL SECURITY ACT

SEC. 501. Section 501 of such Act is amended by striking out "$3,800,000" and inserting in lieu thereof "$5,820,000".

SEC. 502. (a) Subsection (a) of section 502 of such Act is amended by striking out "$1,800,000" and inserting in lieu thereof "$2,800,000".

(b) Subsection (b) of such section 502 is amended by striking out "$980,000" and inserting in lieu thereof "$1,980,000".

SEC. 503. Clause (3) of section 503 (a) of such Act is amended to read as follows: "(3) provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient operation of the plan."

SEC. 504. Section 511 of such Act is amended by striking out "$2,850,000" and inserting in lieu thereof "$3,870,000".

SEC. 505. (a) Subsection (a) of section 512 of such Act is amended by striking out the words "the remainder" and inserting in lieu thereof "61,830,000".

(b) Such section is further amended by inserting after subsection (a) the following new subsection:

"(b) Out of the sums appropriated pursuant to section 511 for each fiscal year the Secretary of Labor shall allot to the States $1,000,000 (in addition to the allotments made under subsection (a)), according to the financial need of each State for assistance in carrying out its State plan, as determined by him after taking into consideration the number of crippled children in such State in need of the services referred to in section 511 and the cost of furnishing such services to them."

(c) Subsection (b) of such section 512 is amended by striking out the letter "(b)" at the beginning thereof and inserting in lieu thereof the letter "(c)".

SEC. 506. Clause (3) of section 513 (a) of such Act is amended to read as follows: "(3) provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are necessary for the proper and efficient operation of the plan."

SEC. 507. (a) Subsection (a) of section 514 of such Act is amended by striking out "section 512" and inserting in lieu thereof "section 512 (a)".

(b) Such section 514 is further amended by inserting at the end thereof the following new subsection:

"(c) The Secretary of Labor shall from time to time certify to the Secretary of the Treasury the amounts to be paid to the States from the allotment available under section 512 (b), and the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department, and prior to audit or settlement by the General Accounting Office, make payments of such amounts from such allotments at the time or times specified by the Secretary of Labor."

(c) Section 521 (a) of such Act is amended by striking out "$1,500,000" and inserting in lieu thereof "$1,510,000".

SEC. 508. (a) Section 531 (a) of such Act is amended by—

(1) Striking out "$1,938,000" and inserting in lieu thereof "$3,500,000".

(2) Striking out "$5,000" and inserting in lieu thereof "$15,000".

(3) Inserting before the period at the end thereof a colon and the following: "*Provided*, That the amount of such sums apportioned to any State for any fiscal year shall be not less than $20,000".

(b) Section 531 (b) of such Act is amended by striking out "$102,000" and inserting in lieu thereof "$150,000".

SEC. 509. Section 601 of such Act is hereby amended to read as follows:

"SEC. 601. For the purpose of assisting States, counties, health districts, and other political subdivisions of the States in establishing and maintaining adequate public health services, including the training of personnel for State and local health work, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1940, the sum of $11,000,000 to be used as hereinafter provided."

P.L. 74-271—SOCIAL SECURITY ACT OF 1935

TITLE V—GRANTS TO STATES FOR MATERNAL AND CHILD WELFARE

PART 1—MATERNAL AND CHILD HEALTH SERVICES

APPROPRIATION

SECTION 501. For the purpose of enabling each State to extend and improve, as far as practicable under the conditions in such State, services for promoting the health of mothers and children, especially in rural areas and in areas suffering from severe economic distress, there is hereby authorized to be appropriated for each fiscal year beginning with the fiscal year ending June 30, 1936, the sum of $3,800,000. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Chief of the Children's Bureau, State plans for such services.

ALLOTMENTS TO STATES

SEC. 502. (a) Out of the sums appropriated pursuant to section 501 for each fiscal year the Secretary of Labor shall allot to each State $20,000, and such part of $1,800,000 as he finds that the number of live births in such State bore to the total number of live births in the United States, in the latest calendar year for which the Bureau of the Census has available statistics.

(b) Out of the sums appropriated pursuant to section 501 for each fiscal year the Secretary of Labor shall allot to the States $980,000 (in addition to the allotments made under subsection (a)), according to the financial need of each State for assistance in carrying out its State plan as determined by him after taking into consideration the number of live births in such State.

(c) The amount of any allotment to a State under subsection (a) for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under section 504 until the end of the second succeeding fiscal year. No payment to a State under section 504 shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.

APPROVAL OF STATE PLANS

SEC. 503. (a) A State plan for maternal and child-health services must (1) provide for financial participation by the State; (2) provide for the administration of the plan by the State health agency or the supervision of the administration of the plan by the State health agency; (3) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are necessary for the efficient operation of the plan; (4) provide that the State health agency will make such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports; (5) provide for the extension and improvement of local maternal and child-health services administered by local child-health units; (6) provide for cooperation with medical, nursing, and welfare groups and organizations; and (7) provide for the development of demonstration services in needy areas and among groups in special need.

(b) The Chief of the Children's Bureau shall approve any plan which fulfills the conditions specified in subsection (a) and shall thereupon notify the Secretary of Labor and the State health agency of his approval.

PAYMENT TO STATES

SEC. 504. (a) From the sums appropriated therefor and the allotments available under section 502 (a), the Secretary of the Treasury shall pay to each State which has an approved plan for maternal and child-health services, for each quarter, beginning with the quarter commencing July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Labor shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such investigation as he may find necessary.

(2) The Secretary of Labor shall then certify the amount so estimated by him to the Secretary of the Treasury, reduced or increased, as the case may be, by any sum by which the Secretary of Labor finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except to the extent that such sum has been applied to make the amount certified for

any prior quarter greater or less than the amount estimated by the Secretary of Labor for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Labor, the amount so certified.

(c) The Secretary of Labor shall from time to time certify to the Secretary of the Treasury the amounts to be paid to the States from the allotments available under section 502 (b), and the Secretary of the Treasury shall, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, make payments of such amounts from such allotments at the time or times specified by the Secretary of Labor.

OPERATION OF STATE PLANS

SEC. 505. In the case of any State plan for maternal and child-health services which has been approved by the Chief of the Children's Bureau, if the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by section 503 to be included in the plan, he shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State.

PART 2—SERVICES FOR CRIPPLED CHILDREN

APPROPRIATION

SEC. 511. For the purpose of enabling each State to extend and improve (especially in rural areas and in areas suffering from severe economic distress), as far as practicable under the conditions in such State, services for locating crippled children, and for providing medical, surgical, corrective, and other services and care, and facilities for diagnosis, hospitalization, and aftercare, for children who are crippled or who are suffering from conditions which lead to crippling, there is hereby authorized to be appropriated for each fiscal year, beginning with the fiscal year ending June 30, 1936, the sum of $2,850,000. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Chief of the Children's Bureau, State plans for such services.

ALLOTMENTS TO STATES

SEC. 512. (a) Out of the sums appropriated pursuant to section 511 for each fiscal year the Secretary of Labor shall allot to each State $20,000, and the remainder to the States according to the need of each State as determined by him after taking into consideration the number of crippled children in such State in need of the services referred to in section 511 and the cost of furnishing such services to them.

(b) The amount of any allotment to a State under subsection (a) for any fiscal year remaining unpaid to such State at the end of such fiscal year shall be available for payment to such State under section 514 until the end of the second succeeding fiscal year. No payment to a State under section 514 shall be made out of its allotment for any fiscal year until its allotment for the preceding fiscal year has been exhausted or has ceased to be available.

APPROVAL OF STATE PLANS

SEC 513. (a) A State plan for services for crippled children must (1) provide for financial participation by the State; (2) provide for the administration of the plan by a State agency or the supervision of the administration of the plan by a State agency; (3) provide such methods of administration (other than those relating to selection, tenure of office, and compensation of personnel) as are necessary for the efficient operation of the plan; (4) provide that the State agency will make such reports, in such form and containing such information, as the Secretary of Labor may from time to time require, and comply with such provisions as he may from time to time find necessary to assure the correctness and verification of such reports; (5) provide for carrying out the purposes specified in section 511; and (6) provide for cooperation with medical, health, nursing, and welfare groups and organizations and with any agency in such State charged with administering State laws providing for vocational rehabilitation of physically handicapped children.

(b) The Chief of the Children's Bureau shall approve any plan which fulfills the conditions specified in subsection (a) and shall thereupon notify the Secretary of Labor and the State agency of his approval.

PAYMENT TO STATES

SEC. 514. (a) From the sums appropriated therefor and the allotments available under section 515, the Secretary of the Treasury shall pay to each State which has an approved plan for services for crippled children, for each quarter, beginning with the quarter commencing July 1, 1935, an amount, which shall be used exclusively for carrying out the State plan, equal to one-half of the total sum expended during such quarter for carrying out such plan.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Labor shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than one-half of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such investigation as he may find necessary.

(2) The Secretary of Labor shall then certify the amount so estimated by him to the Secretary of the Treasury, reduced or increased, as the case may be, by any sum by which the Secretary of Labor finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, except to the extent that such sum has been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Labor for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Division of Disbursement of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Labor, the amount so certified.

OPERATION OF STATE PLANS

SEC. 515. In the case of any State plan for services for crippled children which has been approved by the Chief of the Children's Bureau, if the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds that in the administration of the plan there is a failure to comply substantially with any provision required by section 518 to be included in the plan, he shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied he shall make no further certification to the Secretary of the Treasury with respect to such State.

P.L. 67-97—MATERNAL AND INFANCY (SHEPPARD-TOWNER) ACT OF 1921

An Act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United Stakes of America in Congress assembled, That there is hereby authorized to be appropriated annually, out of any money in the Treasury not otherwise appropriated, the sums specified in section 2 of this Act, to be paid to the several States for the purpose of cooperating with them in promoting the welfare and hygiene of maternity and infancy as hereinafter provided.

SEC. 2. For the purpose of carrying out the provisions of this Act, there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, for the current fiscal year $480,000, to be equally apportioned among the several States, and for each subsequent year, for the period of five years, $240,000, to be equally apportioned among the several States in the manner hereinafter provided: *Provided*, That there is hereby authorized to be appropriated for the use of the States, subject to the provisions of this Act, for the fiscal year ending June 30, 1922, an additional sum of $1,000,000, and annually thereafter, for the period of five years, an additional sum not to exceed 1,000,000: *Provided further*, That the additional appropriations herein authorized shall be apportioned $5,000 to each State and the balance among the States in the proportion which their population bears to the total population of the States of the United States, according to the last preceding United States census: *And provided further*, That no payment out of the additional appropriation herein authorized shall be made in any year to any State until an equal sum has been appropriated for that year by the legislature of such State for the maintenance of the services and facilities provided for in this Act.

So much of the amount apportioned to any State for any fiscal year as remains unpaid to such State at the close thereof shall be available for expenditures in that State until the close of the succeeding fiscal year.

SEC. 3. There is hereby created a Board of Maternity and Infant Hygiene, which shall consist of the Chief of the Children's Bureau, the Surgeon General of the United States Public Health Service, and the United States Commissioner of Education, and which is hereafter designated in this Act as the Board. The Board shall elect its own chairman and perform the duties provided for in this Act.

The Children's Bureau of the Department of Labor shall be charged with the administration of this Act, except as herein otherwise provided, and the Chief of the Children's Bureau shall be the executive officer. It shall be the duty of the Children's Bureau to make or cause to be made such studies, investigations, and reports as will promote the efficient administration of this Act.

SEC. 4. In order to secure the benefits of the appropriations authorized in section 2 of this Act, any State shall, through the legislative authority thereof, accept the provisions of this Act and designate or authorize the creation of a State agency with which the Children's Bureau shall have all necessary powers to cooperate as herein provided in the administration of the provisions of this Act: *Provided*, That in any State having a child-welfare or child-hygiene division in its State agency of health, the said State agency of health shall administer the provisions of this Act through such divisions. If the legislature of any State has not made provision for accepting the provisions of this Act, the governor of such State may in so far as he is authorized to do so by the laws of such State accept the provisions of this Act and designate or create a State agency to cooperate with the Children's Bureau until six months after the adjournment of the first regular session of the legislature in such State following the passage of this Act.

SEC. 5. So much, not to exceed 5 per centime, of the additional appropriations authorized for any fiscal year under section 2 of this Act, as the Children's Bureau may estimate to be necessary for administering the provisions of this Act, as herein provided, shall be deducted for that purpose, to be available until expended.

SEC. 6. Out of the amounts authorized under section 5 of this Act the Children's Bureau is authorized to employ such assistants, clerks, and other persons in the District of Columbia and elsewhere, to be taken from the eligible lists of the Civil Service Commission and to purchase such supplies, material, equipment, office fixtures and apparatus, and to incur such travel and other expense as it may deem necessary for carrying out the purposes of this Act.

SEC. 7. Within sixty days after any appropriation authorized by this Act has been made, the Children's Bureau shall make the apportionment herein provided for and shall certify to the Secretary of the Treasury the amount estimated by the bureau to be necessary for administering the provisions of this Act, and shall certify to the Secretary of the Treasury and to the treasurers of the various States the amount which has been apportioned to each State for the fiscal year for which such appropriation has been made.

SEC. 8. Any State desiring to receive the benefits of this Act shall, by its agency described in section 4, submit to the Children's Bureau detailed plans for carrying out the provisions of this Act within such State, which plans shall be subject to the approval of the board: *Provided*, That the plans of the States under this Act shall provide that no official, or agent, or representative in carrying out the provisions of this Act shall enter any home or take charge of any child over the objection of the parents, or either of them, or the person standing in loco parentis or having custody of such child. If these plans shall be in conformity with the provisions of this Act and reasonably appropriate and adequate to carry out its purposes they shall be approved by the board and due notice of such approval shall be sent to the State agency by the chief of the Children s Bureau.

SEC. 9. No official, agent, or representative of the Children's Bureau shall by virtue of this Act have any right to enter any home over the objection of the owner thereof, or to take charge of any child over the objection of the parents, or either of them, or of the person standing in loco parentis or having custody of such child. Nothing in this Act shall be construed as limiting the power of a parent or guardian or person standing in loco parentis to determine what treatment or correction shall be provided for a child or the agency or agencies to be employed for such purpose.

SEC. 10. Within sixty days after any appropriation authorized by this Act has been made, and as often thereafter while such appropriation remains unexpended as changed conditions may warrant, the Children's Bureau shall ascertain the amounts that have been appropriated by the legislatures of the several States accepting the provisions of this Act and shall certify to the Secretary of the Treasury the amount to which each State is entitled under the provisions of this Act. Such certificate shall state (1) that the State has, through its legislative authority, accepted the provisions of this Act and designated or authorized the creation of an agency to cooperate with the Children's Bureau, or that the State has otherwise accepted this Act, as provided in section 4 hereof; (2) the fact that the proper agency of the State has submitted to the Children's Bureau detailed plans for carrying out the provisions of this Act, and that such plans have been approved by the board; (3) the amount, if any, that has been appropriated by the legislature of the State for the maintenance of the services and facilities of this Act, as provided in section 2 hereof; and (4) the amount to which the State is entitled under the provisions of this Act. Such certificate, when in conformity with the provisions hereof, shall, until revoked as provided in section 12 hereof, be sufficient authority to the Secretary of the Treasury to make payment to the State in accordance therewith.

SEC. 11. Each State agency cooperating with the Children's Bureau under this Act shall make such reports concerning its operations and expenditures as shall be prescribed or requested by the bureau. The Children's Bureau may, with the approval of the board, and shall, upon request of a majority of the board, withhold any further certificate provided for in section 10 hereof whenever it shall be determined as to any State that the agency thereof has not properly expended the money paid to it or the moneys herein required to be appropriated by such State for the purposes and in accordance with the provisions of this Act. Such certificate may be withheld until such time or upon such conditions as the Children's Bureau, with the approval of the board, may determine; when so withheld the State agency may appeal to the President of the United States who may either affirm or reverse the action of the Bureau with such directions as he shall consider proper: *Provided*, That before any such certificate shall be withheld from any State, the chairman of the board shall give notice in writing to the authority designated to represent the State, stating specifically wherein said State has failed to comply with the provisions of this Act.

SEC. 12. No portion of any moneys apportioned under this Act for the benefit of the States shall be applied, directly or indirectly, to the purchase, erection, preservation, or repair of any building or buildings or equipment or for the purchase or rental of any buildings or lands, nor shall any such moneys or moneys required to be appropriated by any State for the purposes and in accordance with the provisions of this Act be useful for the payment of any maternity or infancy pension, stipend, or gratuity.

SEC. 13. The Children's Bureau shall perform the duties assigned to it by this Act under the supervision of the Secretary of Labor, and he shall include in his annual report to Congress a full account of the administration of this Act and expenditures of the moneys herein authorized.

SEC. 14. This Act shall be construed as intending to secure to the various States control of the administration of this Act within their respective States, subject only to the provisions and purposes of this Act.

Approved, November 23, 1921.

P.L. 62-116

ACT OF APRIL 9, 1912

(37 Stat. 79)

An Act To Establish in the Department of Commerce and Labor a Bureau To Be Known as the Children's Bureau

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be established in the Department of Commerce and Labor a bureau to be known as the Children's Bureau.[1] [2] [3]

SEC. 2. That the said bureau shall be under the direction of a chief, to be appointed by the President, by and with the advice and consent of the Senate, and who shall receive an annual compensation of five thousand dollars. The said bureau shall investigate and report to said department upon all matters pertaining to the welfare of children and child life among all classes of our people, and shall especially investigate the questions of infant mortality, the birth rate, orphanage, juvenile courts, desertion, dangerous occupations, accidents and diseases of children, employment, legislation affecting children in the several States and Territories. But no official, or agent, or representative of said bureau shall, over the objection of the head of the family, enter any house used exclusively as a family residence. The chief of said bureau may from time to time publish the results of these investigations in such manner and to such extent as may be prescribed by the Secretary of Commerce and Labor.

SEC. 3. That there shall be in said bureau, until otherwise provided for by law, an assistant chief, to be appointed by the Secretary of Commerce and Labor, who shall receive an annual compensation of two thousand four hundred dollars; one private secretary to the chief of the bureau, who shall receive an annual compensation of one thousand five hundred dollars; one statistical expert, at two thousand dollars; two clerks of class four; two clerks of class three; one clerk of class two; one clerk of class one; one clerk, at one thousand dollars; one copyist, at nine hundred dollars; one special agent, at one thousand four hundred dollars; one special agent, at one thousand two hundred dollars, and one messenger at eight hundred and forty dollars.

SEC. 4. That the Secretary of Commerce and Labor is hereby directed to furnish sufficient quarters for the work of this bureau at an annual rental not to exceed two thousand dollars.

SEC. 5. That this Act shall take effect and be in force from and after its passage.

Approved, April 9, 1912.

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[1] Transferred from Department of Commerce and Labor to Department of Labor by Act approved March 4, 1913 (37 Stat. 737).

[2] Transferred, with the exception of the Industrial Division, from the Department of Labor to the Federal Security Agency on July 16, 1946, as directed by the President's Reorganization Plan No. 2 (11 Federal Register, p. 7873, July 20, 1964). See p. 773.

[3] Transferred January 28, 1963 to the newly created Welfare Administration in the Department of Health, Education, and Welfare.

SELECTED PROVISIONS OF OTHER LAWS AFFECTING MATERNAL AND CHILD HEALTH

P.L. 104-146—RYAN WHITE CARE ACT AMENDMENTS OF 1996

SEC. 3. GENERAL AMENDMENTS.

(e) DEMONSTRATION GRANTS FOR RESEARCH AND SERVICES FOR PEDIATRIC PATIENTS.—Section 2671 (42 U.S.C. 300f-71) is amended to read as follows:

"SEC. 2671. GRANTS FOR COORDINATED SERVICES AND ACCESS TO RESEARCH FOR WOMEN, INFANTS, CHILDREN, AND YOUTH.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration and in consultation with the Director of the National Institutes of Health, shall make grants to public and nonprofit private entities that provide primary care (directly or through contracts) for the following purposes:

"(1) Providing through such entities, in accordance with this section, opportunities for women, infants, children, and youth to be voluntary participants in research of potential clinical benefit to individuals with HIV disease.

"(2) In the case of women, infants, children, and youth with HIV disease, and the families of such individuals, providing to such individuals—

"(A) health care on an outpatient basis; and

"(B) additional services in accordance with subsection (d).

"(b) PROVISIONS REGARDING PARTICIPATION IN RESEARCH.—

"(1) IN GENERAL.—With respect to the projects of research with which an applicant under subsection (a) is concerned, the Secretary may make a grant under such subsection to the applicant only if the following conditions are met:

"(A) The applicant agrees to make reasonable efforts—

"(i) to identify which of the patients of the applicant are women, infants, children, and youth who would be appropriate participants in the projects;

"(ii) to carry out clause (i) through the use of criteria provided for such purpose by the entities that will be conducting the projects of research; and

"(iii) to offer women, infants, children, and youth the opportunity to participate in the projects (as appropriate), including the provision of services under subsection (d)(3).

"(B) The applicant agrees that, in the case of the research-related functions to be carried out by the applicant pursuant to subsection (a)(1), the applicant will comply with accepted standards that are applicable to such functions (including accepted standards regarding informed consent and other protections for human subjects).

"(C) For the first and second fiscal years for which grants under subsection (a) are to be made to the applicant, the applicant agrees that, not later than the end of the second fiscal year of receiving such a grant, a significant number of women, infants, children, and youth who are patients of the applicant will be participating in the projects of research.

"(D) Except as provided in paragraph (3) (and paragraph (4), as applicable), for the third and subsequent fiscal years for which such grants are to be made to the applicant, the Secretary has determined that a significant number of such individuals are participating in the projects.

"(2) PROHIBITION.—Receipt of services by a patient shall not be conditioned upon the consent of the patient to participate in research.

"(3) SIGNIFICANT PARTICIPATION; CONSIDERATION BY SECRETARY OF CERTAIN CIRCUMSTANCES.—In administering the requirement of paragraph (1)(D), the Secretary shall take into account circumstances in which a grantee under subsection (a) is temporarily unable to comply with the requirement for reasons beyond the control of the grantee, and shall in such circumstances provide to the grantee a reasonable period of opportunity in which to reestablish compliance with the requirement.

"(4) SIGNIFICANT PARTICIPATION; TEMPORARY WAIVER FOR ORIGINAL GRANTEES.—

"(A) IN GENERAL.—In the case of an applicant under subsection (a) who received a grant under such subsection for fiscal year 1995, the Secretary may, subject to subparagraph (B), provide to the applicant a waiver of the requirement of paragraph (1)(D) if the Secretary determines that the applicant is making reasonable progress toward meeting the requirement.

"(B) TERMINATION OF AUTHORITY FOR WAIVERS.—The Secretary may not provide any waiver under subparagraph (A) on or after October 1, 1998. Any such waiver provided prior to such date terminates on such date, or on such earlier date as the Secretary may specify.

"(c) PROVISIONS REGARDING CONDUCT OF RESEARCH.—

"(1) IN GENERAL.—With respect to eligibility for a grant under subsection (a):

"(A) A project of research for which subjects are sought pursuant to such subsection may be conducted by the applicant for the grant, or by an entity with which the applicant has made arrangements for purposes of the grant. The grant may not be expended for the conduct of any project of research, except for such research-related functions as are appropriate for providing opportunities under subsection (a)(1) (including the functions specified in subsection (b)(1)).

"(B) The grant may be made only if the Secretary makes the following determinations:

"(i) The applicant or other entity (as the case may be under subparagraph (A)) is appropriately qualified to conduct the project of research. An entity shall be considered to be so qualified if any research protocol of the entity has been recommended for funding under this Act pursuant to technical and scientific peer review through the National Institutes of Health.

"(ii) The project of research is being conducted in accordance with a research protocol to which the Secretary gives priority regarding the prevention or treatment of HIV disease in women, infants, children, or youth, subject to paragraph (2).

"(2) LIST OF RESEARCH PROTOCOLS.—

"(A) IN GENERAL.—From among the research protocols described in paragraph (1)(B)(ii), the Secretary shall establish a list of research protocols that are appropriate for purposes of subsection (a)(1). Such list shall be established only after consultation with public and private entities that conduct such research, and with providers of services under subsection (a) and recipients of such services.

"(B) DISCRETION OF SECRETARY.—The Secretary may authorize the use, for purposes of subsection (a)(1), of a research protocol that is not included on the list under subparagraph (A). The Secretary may waive the requirement specified in paragraph (1)(B)(ii) in such circumstances as the Secretary determines to be appropriate.

"(d) ADDITIONAL SERVICES FOR PATIENTS AND FAMILIES.—A grant under subsection (a) may be made only if the applicant for the grant agrees as follows:

"(1) The applicant will provide for the case management of the patient involved and the family of the patient.

"(2) The applicant will provide for the patient and the family of the patient—

"(A) referrals for inpatient hospital services, treatment for substance abuse, and mental health services; and

"(B) referrals for other social and support services, as appropriate.

"(3) The applicant will provide the patient and the family of the patient with such transportation, child care, and other incidental services as may be necessary to enable the patient and the family to participate in the program established by the applicant pursuant to such subsection.

"(e) COORDINATION WITH OTHER ENTITIES.—A grant under subsection (a) may be made only if the applicant for the grant agrees as follows:

"(1) The applicant will coordinate activities under the grant with other providers of health care services under this Act, and under title V of the Social Security Act.

"(2) The applicant will participate in the statewide coordinated statement of need under part B (where it has been initiated by the public health agency responsible for administering grants under part B) and in revisions of such statement.

"(f) APPLICATION.—A grant under subsection (a) may be made only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(g) COORDINATION WITH NATIONAL INSTITUTES OF HEALTH.—The Secretary shall develop and implement a plan that provides for the coordination of the activities of the National Institutes of Health with the activities carried out under this section. In carrying out the preceding sentence, the Secretary shall ensure that projects of research conducted or supported by such Institutes are made aware of applicants and grantees under subsection (a), shall require that the projects, as appropriate, enter into arrangements for purposes of such subsection, and shall require that each project entering into such an arrangement inform the applicant or grantee under such subsection of the needs of the project for the participation of women, infants, children, and youth.

"(h) ANNUAL REVIEW OF PROGRAMS; EVALUATIONS.—

"(1) REVIEW REGARDING ACCESS TO AND PARTICIPATION IN PROGRAMS.—With respect to a grant under subsection (a) for an entity for a fiscal year, the Secretary shall, not later than 180 days after the end of the fiscal year, provide for the conduct and completion of a review of the operation during the year of the program carried out under such subsection by the entity. The purpose of such review shall be the development of recommendations, as appropriate, for improvements in the following:

"(A) Procedures used by the entity to allocate opportunities and services under subsection (a) among patients of the entity who are women, infants, children, or youth.

"(B) Other procedures or policies of the entity regarding the participation of such individuals in such program.

"(2) EVALUATIONS.—The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of programs carried out pursuant to subsection (a).

"(i) TRAINING AND TECHNICAL ASSISTANCE.—Of the amounts appropriated under subsection (j) for a fiscal year, the Secretary may use not more than five percent to provide, directly or through contracts with public and private entities (which may include grantees under subsection (a)), training and technical assistance to assist applicants and grantees under subsection (a) in complying with the requirements of this section.

"(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1996 through 2000.".

SEC. 7. PERINATAL TRANSMISSION OF HIV DISEASE.

(a) FINDINGS.—The Congress finds as follows:

(1) Research studies and statewide clinical experiences have demonstrated that administration of anti-retroviral medication during pregnancy can significantly reduce the transmission of the human immunodeficiency virus (commonly known as HIV) from an infected mother to her baby.

(2) The Centers for Disease Control and Prevention have recommended that all pregnant women receive HIV counseling; voluntary, confidential HIV testing; and appropriate medical treatment (including anti-retroviral therapy) and support services.

(3) The provision of such testing without access to such counseling, treatment, and services will not improve the health of the woman or the child.

(4) The provision of such counseling, testing, treatment, and services can reduce the number of pediatric cases of acquired immune deficiency syndrome, can improve access to and provision of medical care for the woman, and can provide opportunities for counseling to reduce transmission among adults, and from mother to child.

(5) The provision of such counseling, testing, treatment, and services can reduce the overall cost of pediatric cases of acquired immune deficiency syndrome.

(6) The cancellation or limitation of health insurance or other health coverage on the basis of HIV status should be impermissible under applicable law. Such cancellation or limitation could result in disincentives for appropriate counseling, testing, treatment, and services.

(7) For the reasons specified in paragraphs (1) through (6)-

(A) routine HIV counseling and voluntary testing of pregnant women should become the standard of care; and

(B) the relevant medical organizations as well as public health officials should issue guidelines making such counseling and testing the standard of care.

(b) ADDITIONAL REQUIREMENTS FOR GRANTS.—Part B of title XXVI (42 U.S.C. 300ff-21 et seq.) is amended—

(1) by inserting after the part heading the following:

"Subpart I—General Grant Provisions";

(2) in section 2611(a), by adding at the end the following sentence: "The authority of the Secretary to provide grants under part B is subject to section 2626(e)(2) (relating to the decrease in perinatal transmission of HIV disease).": and

(3) by adding at the end thereof the following new subpart:

"Subpart II—Provisions Concerning Pregnancy and Perinatal Transmission of HIV

"SEC. 2625. CDC GUIDELINES FOR PREGNANT WOMEN.

"(a) REQUIREMENT.—Notwithstanding any other provision of law, a State shall, not later than 120 days after the date of enactment of this subpart, certify to the Secretary that such State has in effect regulations or measures to adopt the guidelines issued by the Centers for Disease Control and Prevention concerning recommendations for human immunodeficiency virus counseling and voluntary testing for pregnant women.

"(b) NONCOMPLIANCE.—If a State does not provide the certification required under subsection (a) within the 120-day period described in such subsection, such State shall not be eligible to receive assistance for HIV counseling and testing under this section until such certification is provided.

"(c) ADDITIONAL FUNDS REGARDING WOMEN AND INFANTS.—

"(1) IN GENERAL.—If a State provides the certification required in subsection (a) and is receiving funds under part B for a fiscal year, the Secretary may (from the amounts available pursuant to paragraph (2)) make a grant to the State for the fiscal year for the following purposes:

"(A) Making available to pregnant women appropriate counseling on HIV disease.

"(B) Making available outreach efforts to pregnant women at high risk of HIV who are not currently receiving prenatal care.

"(C) Making available to such women voluntary HIV testing for such disease.

"(D) Offsetting other State costs associated with the implementation of this section and subsections (a) and (b) of section 2626.

"(E) Offsetting State costs associated with the implementation of mandatory newborn testing in accordance with this title or at an earlier date than is required by this title.

"(2) FUNDING.—For purposes of carrying out this subsection, there are authorized to be appropriated $10,000,000 for each of the fiscal years 1996 through 2000. Amounts made available under section 2677 for carrying out this part are not available for carrying out this section unless otherwise authorized.

"(3) PRIORITY.—In awarding grants under this subsection the Secretary shall give priority to States that have the greatest proportion of HIV seroprevalence among child bearing women using the most recent data available as determined by the Centers for Disease Control and Prevention.

"SEC. 2626. PERINATAL TRANSMISSION OF HIV DISEASE; CONTINGENT REQUIREMENT REGARDING STATE GRANTS UNDER THIS PART.

"(a) ANNUAL DETERMINATION OF REPORTED CASES.—A State shall annually determine the rate of reported cases of AIDS as a result of perinatal transmission among residents of the State.

"(b) CAUSES OF PERINATAL TRANSMISSION.—In determining the rate under subsection (a), a State shall also determine the possible causes of perinatal transmission. Such causes may include—

"(1) the inadequate provision within the State of prenatal counseling and testing in accordance with the guidelines issued by the Centers for Disease Control and Prevention;

"(2) the inadequate provision or utilization within the State of appropriate therapy or failure of such therapy to reduce perinatal transmission of HIV, including—

"(A) that therapy is not available, accessible or offered to mothers; or

"(B) that available therapy is offered but not accepted by mothers; or

"(3) other factors (which may include the lack of prenatal care) determined relevant by the State.

"(c) CDC REPORTING SYSTEM.—Not later than 4 months after the date of enactment of this subpart, the Director of the Centers for Disease Control and Prevention shall develop and implement a system to be used by States to comply with the requirements of subsections (a) and (b). The Director shall issue guidelines to ensure that the data collected is statistically valid.

"(d) DETERMINATION BY SECRETARY.—Not later than 180 days after the expiration of the 18-month period beginning on the date on which the system is implemented under subsection (c), the Secretary shall publish in the Federal Register a determination of whether it has become a routine practice in the provision of health care in the United States to carry out each of the activities described in paragraphs (1) through (5) of section 2627. In making the determination, the Secretary shall consult with the States and with other public or private entities that have knowledge or expertise relevant to the determination.

"(e) CONTINGENT APPLICABILITY.—

"(1) IN GENERAL.—If the determination published in the Federal Register under subsection (d) is that (for purposes of such subsection) the activities involved have become routine practices, paragraph (2) shall apply on and after the expiration of the 18-month period beginning on the date on which the determination is so published.

"(2) REQUIREMENT.—Subject to subsection (f), the Secretary shall not make a grant under part B to a State unless the State meets not less than one of the following requirements:

"(A) A 50 percent reduction (or a comparable measure for States with less than 10 cases) in the rate of new cases of AIDS (recognizing that AIDS is a suboptimal proxy for tracking HIV in infants and was selected because such data is universally available) as a result of perinatal transmission as compared to the rate of such cases reported in 1993 (a State may use HIV data if such data is available).

"(B) At least 95 percent of women in the State who have received at least two prenatal visits (consultations) prior to 34 weeks gestation with a health care provider or provider group have been tested for the human immunodeficiency virus.

"(C) The State has in effect, in statute or through regulations, the requirements specified in paragraphs (1) through (5) of section 2627.

"(f) LIMITATION REGARDING AVAILABILITY OF FUNDS.—With respect to an activity described in any of paragraphs (1) through (5) of section 2627, the requirements established by a State under this section apply for purposes of this section only to the extent that the following sources of funds are available for carrying out the activity:

"(1) Federal funds provided to the State in grants under part B or under section 2625, or through other Federal sources under which payments for routine HIV testing, counseling or treatment are an eligible use.

"(2) Funds that the State or private entities have elected to provide, including through entering into contracts under which health benefits are provided. This section does not require any entity to expend non-Federal funds.

"SEC. 2627. TESTING OF PREGNANT WOMEN AND NEWBORN INFANTS.

"An activity or requirement described in this section is any of the following:

"(1) In the case of newborn infants who are born in the State and whose biological mothers have not undergone prenatal testing for HIV disease, that each such infant undergo testing for such disease.

"(2) That the results of such testing of a newborn infant be promptly disclosed in accordance with the following, as applicable to the infant involved:

"(A) To the biological mother of the infant (without regard to whether she is the legal guardian of the infant).

"(B) If the State is the legal guardian of the infant:

"(i) To the appropriate official of the State agency with responsibility for the care of the infant.

"(ii) To the appropriate official of each authorized agency providing assistance in the placement of the infant.

"(iii) If the authorized agency is giving significant consideration to approving an individual as a foster parent of the infant, to the prospective foster parent.

"(iv) If the authorized agency is giving significant consideration to approving an individual as an adoptive parent of the infant, to the prospective adoptive parent.

"(C) If neither the biological mother nor the State is the legal guardian of the infant, to another legal guardian of the infant.

"(D) To the child's health care provider.

"(3) That, in the case of prenatal testing for HIV disease that is conducted in the State, the results of such testing be promptly disclosed to the pregnant woman involved.

"(4) That, in disclosing the test results to an individual under paragraph (2) or (3), appropriate counseling on the human immunodeficiency virus be made available to the individual (except in the case of a disclosure to an official of a State or an authorized agency).

"(5) With respect to State insurance laws, that such laws require—

"(A) that, if health insurance is in effect for an individual, the insurer involved may not (without the consent of the individual) discontinue the insurance, or alter the terms of the insurance (except as provided in subparagraph (C)), solely on the basis that the individual is infected with HIV disease or solely on the basis that the individual has been tested for the disease or its manifestation;

"(B) that subparagraph (A) does not apply to an individual who, in applying for the health insurance involved, knowingly misrepresented the HIV status of the individual; and

"(C) that subparagraph (A) does not apply to any reasonable alteration in the terms of health insurance for an individual with HIV disease that would have been made if the individual had a serious disease other than HIV disease. For purposes of this subparagraph, a statute or regulation shall be deemed to regulate insurance for purposes of this paragraph only to the extent that such statute or regulation is treated as regulating insurance for purposes of section 514(b)(2) of the Employee Retirement Income Security Act of 1974.

"SEC. 2628. REPORT BY THE INSTITUTE OF MEDICINE.

"(a) IN GENERAL.—The Secretary shall request that the Institute of Medicine of the National Academy of Sciences conduct an evaluation of the extent to which State efforts have been effective in reducing the perinatal transmission of the human immunodeficiency virus, and an analysis of the existing barriers to the further reduction in such transmission.

"(b) REPORT TO CONGRESS.—The Secretary shall ensure that, not later than 2 years after the date of enactment of this section, the evaluation and analysis described in subsection (a) is completed and a report summarizing the results of such evaluation and analysis is prepared by the Institute of Medicine and submitted to the appropriate committees of Congress together with the recommendations of the Institute.

"SEC. 2629. STATE HIV TESTING PROGRAMS ESTABLISHED PRIOR TO OR AFTER ENACTMENT.

"Nothing in this subpart shall be construed to disqualify a State from receiving grants under this title if such State has established at any time prior to or after the date of enactment of this subpart a program of mandatory HIV testing.".

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SEC. 13631. MEDICAID PEDIATRIC IMMUNIZATION PROVISIONS.

(a) STATE PLAN REQUIREMENT FOR PEDIATRIC IMMUNIZATION DISTRIBUTION PROGRAM.—Section 1902(a) (42 U.S.C. 1396a(a)), as amended by sections 13623(a) and 13625(a), is amended—

(1) by striking "and" at the end of paragraph (60);

(2) by striking the period at the end of paragraph (61) and inserting "; and"; and

(3) by adding at the end the following new paragraph: "(62) provide for a program for the distribution of pediatric vaccines to program-registered providers for the immunization of vaccine-eligible children in accordance with section 1928.".

(b) DESCRIPTION OF REQUIRED PROGRAM.—Title XIX is amended—

(1) by redesignating section 1928 as section 1931 and by moving such section to the end of such title, and

(2) by inserting after section 1927 the following new section:

"PROGRAM FOR DISTRIBUTION OF PEDIATRIC VACCINES

"SEC. 1928. (a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—In order to meet the requirement of section 1902(a)(62), each State shall establish a pediatric vaccine distribution program (which may be administered by the State department of health), consistent with the requirements of this section, under which—

"(A) each vaccine-eligible child (as defined in subsection (b)), in receiving an immunization with a qualified pediatric vaccine (as defined in subsection (h)(8)) from a program-registered provider (as defined in subsection (c)) on or after October 1, 1994, is entitled to receive the immunization without charge for the cost of such vaccine; and

"(B)(i) each program-registered provider who administers such a pediatric vaccine to a vaccine-eligible child on or after such date is entitled to receive such vaccine under the program without charge either for the vaccine or its delivery to the provider, and

(ii) no vaccine is distributed under the program to a provider unless the provider is a program-registered provider.

"(2) DELIVERY OF SUFFICIENT QUANTITIES OF PEDIATRIC VACCINES TO IMMUNIZE FEDERALLY VACCINE-ELIGIBLE CHILDREN.—

"(A) IN GENERAL.—The Secretary shall provide under subsection (d) for the purchase and delivery on behalf of each State meeting the requirement of section 1902(a)(62) (or, with respect to vaccines administered by an Indian tribe or tribal organization to Indian children, directly to the tribe or organization), without charge to the State, of such quantities of qualified pediatric vaccines as may be necessary for the administration of such vaccines to all federally vaccine-eligible children in the State on or after October 1, 1994. This paragraph constitutes budget authority in advance of appropriations Acts, and represents the obligation of the Federal Government to provide for the purchase and delivery to States of the vaccines (or payment under subparagraph (C)) in accordance with this paragraph.

"(B) SPECIAL RULES WHERE VACCINE IS UNAVAILABLE.—To the extent that a sufficient quantity of a vaccine is not available for purchase or delivery under subsection (d), the Secretary shall provide for the purchase and delivery of the available vaccine in accordance with priorities established by the Secretary, with priority given to federally vaccine-eligible children unless the Secretary finds there are other public health considerations.

"(C) SPECIAL RULES WHERE STATE IS A MANUFACTURER.—

"(i) PAYMENTS IN LIEU OF VACCINES.—In the case of a State that manufactures a pediatric vaccine the Secretary, instead of providing the vaccine on behalf of a State under subparagraph (A), shall provide to the State an amount equal to the value of the quantity of such vaccine that otherwise would have been delivered on behalf of the State under such subparagraph, but only if the State agrees that such payments will only be used for purposes relating to pediatric immunizations.

"(ii) DETERMINATION OF VALUE.—In determining the amount to pay a State under clause (i) with respect to a pediatric vaccine, the value of the quantity of vaccine shall be determined on the basis of the price in effect for the qualified pediatric vaccine under contracts under subsection (d). If more than 1 such contract is in effect, the Secretary shall determine such value on the basis of the average of the prices under the contracts, after weighting each such price in relation to the quantity of vaccine under the contract involved.

"(b) VACCINE-ELIGIBLE CHILDREN.—For purposes of this section:

"(1) IN GENERAL.—The term 'vaccine-eligible child' means a child who is a federally vaccine-eligible child (as defined in paragraph (2)) or a State vaccine-eligible child (as defined in paragraph (3)).

"(2) FEDERALLY VACCINE-ELIGIBLE CHILD.—

"(A) IN GENERAL.—The term 'federally vaccine-eligible child' means any of the following children:

"(i) A medicaid-eligible child.

"(ii) A child who is not insured.

"(iii) A child who (I) is administered a qualified pediatric vaccine by a federally-qualified health center (as defined in section 1905(l)(2)(B)) or a rural health clinic (as defined in section 1905(l)(1)), and (II) is not insured with respect to the vaccine.

"(iv) A child who is an Indian (as defined in subsection (h)(3)).

"(B) DEFINITIONS.—In subparagraph (A):

"(i) The term 'medicaid-eligible' means, with respect to a child, a child who is entitled to medical assistance under a State plan approved under this title.

"(ii) The term 'insured' means, with respect to a child—

"(I) for purposes of subparagraph (A)(ii), that the child is enrolled under, and entitled to benefits under, a health insurance policy or plan, including a group health plan, a prepaid health plan, or an employee welfare benefit plan under the Employee Retirement Income Security Act of 1974; and

"(II) for purposes of subparagraph (A)(iii)(II) with respect to a pediatric vaccine, that the child is entitled to benefits under such a health insurance policy or plan, but such benefits are not available with respect to the cost of the pediatric vaccine.

"(3) STATE VACCINE-ELIGIBLE CHILD.—The term 'State vaccine-eligible child' means, with respect to a State and a qualified pediatric vaccine, a child who is within a class of children for which the State is purchasing the vaccine pursuant to subsection (d)(4)(B).

"(c) PROGRAM-REGISTERED PROVIDERS.—

"(1) DEFINED.—In this section, except as otherwise provided, the term 'program-registered provider' means, with respect to a State, any health care provider that—

"(A) is licensed or otherwise authorized for administration of pediatric vaccines under the law of the State in which the administration occurs (subject to section 333(e) of the Public Health Service Act), without regard to whether or not the provider participates in the plan under this title;

"(B) submits to the State an executed provider agreement described in paragraph (2); and

"(C) has not been found, by the Secretary or the State, to have violated such agreement or other applicable requirements established by the Secretary or the State consistent with this section.

"(2) PROVIDER AGREEMENT.—A provider agreement for a provider under this paragraph is an agreement (in such form and manner as the Secretary may require) that the provider agrees as follows:

"(A)(i) Before administering a qualified pediatric vaccine to a child, the provider will ask a parent of the child such questions as are necessary to determine whether the child is a vaccine-eligible child, but the provider need not independently verify the answers to such questions.

"(ii) The provider will, for a period of time specified by the Secretary, maintain records of responses made to the questions.

"(iii) The provider will, upon request, make such records available to the State and to the Secretary, subject to section 1902(a)(7).

"(B)(i) Subject to clause (ii), the provider will comply with the schedule, regarding the appropriate periodicity, dosage, and contraindications applicable to pediatric vaccines, that is established and periodically reviewed and, as appropriate, revised by the advisory committee referred to in subsection (e), except in such cases as, in the provider's medical judgment subject to accepted medical practice, such compliance is medically inappropriate.

"(ii) The provider will provide pediatric vaccines in compliance with applicable State law, including any such law relating to any religious or other exemption.

"(C)(i) In administering a qualified pediatric vaccine to a vaccine-eligible child, the provider will not impose a charge for the cost of the vaccine. A program-registered provider is not required under this section to administer such a vaccine to each child for whom an immunization with the vaccine is sought from the provider.

"(ii) The provider may impose a fee for the administration of a qualified pediatric vaccine so long as the fee in the case of a federally vaccine-eligible child does not exceed the costs of such administration (as determined by the Secretary based on actual regional costs for such administration).

"(iii) The provider will not deny administration of a qualified pediatric vaccine to a vaccine-eligible child due to the inability of the child's parent to pay an administration fee.

"(3) ENCOURAGING INVOLVEMENT OF PROVIDERS.—Each program under this section shall provide, in accordance with criteria established by the Secretary—

"(A) for encouraging the following to become program-registered providers: private health care providers, the Indian Health Service, health care providers that receive funds under title V of the Indian Health Care Improvement Act, and health programs or facilities operated by Indian tribes or tribal organizations; and

"(B) for identifying, with respect to any population of vaccine-eligible children a substantial portion of whose parents have a limited ability to speak the English language, those program-registered providers who are able to communicate with the population involved in the language and cultural context that is most appropriate.

"(4) STATE REQUIREMENTS.—Except as the Secretary may permit in order to prevent fraud and abuse and for related purposes, a State may not impose additional qualifications or conditions, in addition to the requirements of paragraph (1), in order that a provider qualify as a program-registered provider under this section. This subsection does not limit the exercise of State authority under section 1915(b).

"(d) NEGOTIATION OF CONTRACTS WITH MANUFACTURERS.—

"(1) IN GENERAL.—For the purpose of meeting obligations under this section, the Secretary shall negotiate and enter into contracts with manufacturers of pediatric vaccines consistent with the requirements of this subsection and, to the maximum extent practicable, consolidate such contracting with any other contracting activities conducted by the Secretary to purchase vaccines. The Secretary may enter into such contracts under which the Federal Government is obligated to make outlays, the budget authority for which is not provided for in advance in appropriations Acts, for the purchase and delivery of pediatric vaccines under subsection (a)(2)(A).

"(2) AUTHORITY TO DECLINE CONTRACTS.—The Secretary may decline to enter into such contracts and may modify or extend such contracts.

"(3) CONTRACT PRICE.—

"(A) IN GENERAL.—The Secretary, in negotiating the prices at which pediatric vaccines will be purchased and delivered from a manufacturer under this subsection, shall take into account quantities of vaccines to be purchased by States under the option under paragraph (4)(B).

"(B) NEGOTIATION OF DISCOUNTED PRICE FOR CURRENT VACCINES.—With respect to contracts entered into under this subsection for a pediatric vaccine for which the Centers for Disease Control and Prevention has a contract in effect under section 317(j)(1) of the Public Health Service Act as of May 1, 1993, no price for the purchase of such vaccine for vaccine-eligible children shall be agreed to by the Secretary under this subsection if the price per dose of such vaccine (including delivery costs and any applicable excise tax established under section 4131 of the Internal Revenue Code of 1986) exceeds the price per dose for the vaccine in effect under such a contract as of such date increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) from May 1993 to the month before the month in which such contract is entered into.

"(C) NEGOTIATION OF DISCOUNTED PRICE FOR NEW VACCINES.—With respect to contracts entered into for a pediatric vaccine not described in subparagraph (B), the price for the purchase of such vaccine shall be a discounted price negotiated by the Secretary that may be established without regard to such subparagraph.

"(4) QUANTITIES AND TERMS OF DELIVERY.—Under such contracts—

"(A) the Secretary shall provide, consistent with paragraph (6), for the purchase and delivery on behalf of States (and tribes and tribal organizations) of quantities of pediatric vaccines for federally vaccine-eligible children; and

"(B) each State, at the option of the State, shall be permitted to obtain additional quantities of pediatric vaccines (subject to amounts specified to the Secretary by the State in advance of negotiations) through purchasing the vaccines from the manufacturers at the applicable price negotiated by the Secretary consistent with paragraph (3), if

"(i) the State agrees that the vaccines will be used to provide immunizations only for children who are not federally vaccine-eligible children and

"(ii) the State provides to the Secretary such information (at a time and manner specified by the Secretary, including in advance of negotiations under paragraph (1)) as the Secretary determines to be necessary, to provide for quantities of pediatric vaccines for the State to purchase pursuant to this subsection and to determine annually the percentage of the vaccine market that is purchased pursuant to this section and this subparagraph.

The Secretary shall enter into the initial negotiations under the preceding sentence not later than 180 days after the date of the enactment of the Omnibus Budget Reconciliation Act of 1993.

"(5) CHARGES FOR SHIPPING AND HANDLING.—The Secretary may enter into a contract referred to in paragraph (1) only if the manufacturer involved agrees to submit to the Secretary such reports as the Secretary determines to be appropriate to assure compliance with the contract and if, with respect to a State program under this section that does not provide for the direct delivery of qualified pediatric vaccines, the manufacturer involved agrees that the manufacturer will provide for the delivery of the vaccines on behalf of the State in accordance with such program and will not impose any charges for the costs of such delivery (except to the extent such costs are provided for in the price established under paragraph (3)).

"(6) ASSURING ADEQUATE SUPPLY OF VACCINES.—The Secretary, in negotiations under paragraph (1), shall negotiate for quantities of pediatric vaccines such that an adequate supply of such vaccines will be maintained to meet unanticipated needs for the vaccines. For purposes of the preceding sentence, the Secretary shall negotiate for a 6-month supply of vaccines in addition to the quantity that the Secretary otherwise would provide for in such negotiations. In carrying out this paragraph, the Secretary shall consider the potential for outbreaks of the diseases with respect to which the vaccines have been developed.

"(7) MULTIPLE SUPPLIERS.—In the case of the pediatric vaccine involved, the Secretary shall, as appropriate, enter into a contract referred to in paragraph (1) with each manufacturer of the vaccine that meets the terms and conditions of the Secretary for an award of such a contract (including terms and conditions regarding safety and quality). With respect to multiple contracts entered into pursuant to this paragraph, the Secretary may have in effect different prices under each of such contracts and, with respect to a purchase by States pursuant to paragraph (4)(B), the Secretary shall determine which of such contracts will be applicable to the purchase.

"(e) USE OF PEDIATRIC VACCINES LIST.—The Secretary shall use, for the purpose of the purchase, delivery, and administration of pediatric vaccines under this section, the list established (and periodically reviewed and as appropriate revised) by the Advisory Committee on Immunization Practices (an advisory committee established by the Secretary, acting through the Director of the Centers for Disease Control and Prevention).

"(f) REQUIREMENT OF STATE MAINTENANCE OF IMMUNIZATION LAWS.—In the case of a State that had in effect as of May 1, 1993, a law that requires some or all health insurance policies or plans to provide some coverage with respect to a pediatric vaccine, a State program under this section does not comply with the requirements of this section unless the State certifies to the Secretary that the State has not modified or repealed such law in a manner that reduces the amount of coverage so required.

"(g) TERMINATION.—This section, and the requirement of section 1902(a)(62), shall cease to be in effect beginning on such date as may be prescribed in Federal law providing for immunization services for all children as part of a broad-based reform of the national health care system.

"(h) DEFINITIONS.—For purposes of this section:

"(1) The term 'child' means an individual 18 years of age or younger.

"(2) The term 'immunization' means an immunization against a vaccine-preventable disease.

"(3) The terms 'Indian', 'Indian tribe' and 'tribal organization' have the meanings given such terms in section 4 of the Indian Health Care Improvement Act.

"(4) The term 'manufacturer' means any corporation, organization, or institution, whether public or private (including Federal, State, and local departments, agencies, and instrumentalities), which manufactures, imports, processes, or distributes under its label any pediatric vaccine. The term 'manufacture' means to manufacture, import, process, or distribute a vaccine.

"(5) The term 'parent' includes, with respect to a child, an individual who qualifies as a legal guardian under State law.

"(6) The term 'pediatric vaccine' means a vaccine included on the list under subsection (e).

"(7) The term 'program-registered provider' has the meaning given such term in subsection (c).

"(8) The term 'qualified pediatric vaccine' means a pediatric vaccine with respect to which a contract is in effect under subsection (d).

"(9) The terms 'vaccine-eligible child', 'federally vaccine-eligible child', and 'State vaccine-eligible child' have the meaning given such terms in subsection (b).".

(c) LIMITATION ON MEDICAID PAYMENTS.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by section 2(b)(2) of the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991, is amended—

(1) in the paragraph (10) inserted by section 4401(a)(1)(B) of OBRA-1990, by striking all that follows "1927(g)" and inserting a semicolon;

(2) by redesignating the paragraph (12) inserted by section 4752(a)(2) of OBRA-1990 as paragraph (11), by transferring and inserting it after the paragraph (10) inserted by section 4401(a)(1)(B) of OBRA-1990, and by striking the period at the end and inserting a semicolon;

(3) by redesignating the paragraph (14) inserted by section 4752(e) of OBRA-1990 as paragraph (12), by transferring and inserting it after paragraph (11), as redesignated by paragraph (2), and by striking the period at the end and inserting a semicolon;

(4) by redesignating the paragraph (11) inserted by section 4801(e)(16)(A) of OBRA-1990 as paragraph (13), by transferring and inserting it after paragraph (12), as redesignated by paragraph (3), and by striking the period at the end and inserting "; or"; and

(5) by inserting after paragraph (13), as so redesignated, the following new paragraph:

"(14) with respect to any amount expended on administrative costs to carry out the program under section 1928.".

(d) CONTINUED COVERAGE OF COSTS OF A PEDIATRIC VACCINE UNDER CERTAIN GROUP HEALTH PLANS.—

(1) REQUIREMENT.—The requirement of this paragraph, with respect to a group health plan for plan years beginning after the date of the enactment of this Act, is that the group health plan not reduce its coverage of the costs of pediatric vaccines (as defined under section 1928(h)(6) of the Social Security Act) below the coverage it provided as of May 1, 1993.

(2) ENFORCEMENT.—For purposes of section 2207 of the Public Health Service Act, the requirement of paragraph (1) is deemed a requirement of title XXII of such Act.

(e) AVAILABILITY OF MEDICAID PAYMENTS FOR CHILDHOOD VACCINE REPLACEMENT PROGRAMS.—

(1) IN GENERAL.—Section 1902(a)(32) (42 U.S.C. 1396a(a)(32)) is amended—

(A) by striking "and" at the end of subparagraph (B),

(B) by striking the period at the end of subparagraph (C) and inserting "; and", and

(C) by adding at the end the following new subparagraph:

"(D) in the case of payment for a childhood vaccine administered before October 1, 1994, to individuals entitled to medical assistance under the State plan, the State plan may make payment directly to the manufacturer of the vaccine under a voluntary replacement program agreed to by the State pursuant to which the manufacturer

"(i) supplies doses of the vaccine to providers administering the vaccine,

"(ii) periodically replaces the supply of the vaccine, and

"(iii) charges the State the manufacturer's price to the Centers for Disease Control and Prevention for the vaccine so administered (which price includes a reasonable amount to cover shipping and the handling of returns);".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(f) OUTREACH AND EDUCATION.—

(1) IN GENERAL.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(A) in paragraph (11)(B)—

(i) by striking "effective July 1, 1969,",

(ii) by striking "and" before "(ii)", and

(iii) by striking "to him under section 1903" and inserting "to the individual under section 1903, and (iii) providing for coordination of information and education on pediatric vaccinations and delivery of immunization services";

(B) in paragraph (11)(C), by inserting ", including the provision of information and education on pediatric vaccinations and the delivery of immunization services," after "operations under this title"; and

(C) in paragraph (43)(A), by inserting before the comma at the end the following: "and the need for age-appropriate immunizations against vaccine-preventable diseases".

(2) COVERAGE OF PUBLIC HOUSING HEALTH CENTERS AND CERTAIN INDIAN HEALTH CARE PROVIDERS AS FEDERALLY-QUALIFIED HEALTH CENTERS.—Section 1905(l)(2)(B) (42 U.S.C. 1396d(l)(2)(B)) is amended—

(A) by striking "or 340" each place it appears and inserting "340, or 340A", and

(B) by inserting "or by an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act for the provision of primary health services" after "93-638)".

(3) EFFECTIVE DATES.—

(A) Except as provided in subparagraph (B), the amendments made by this subsection shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this subsection, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(g) SCHEDULE OF IMMUNIZATIONS UNDER EPSDT.—

(1) IN GENERAL.—Section 1905(r)(1) (42 U.S.C. 1396d(r)(1)) is amended—

(A) in subparagraph (A)(i), by inserting "and, with respect to immunizations under subparagraph (B)(iii), in accordance with the schedule referred to in section 1928(c)(2)(B)(i) for pediatric vaccines" after "child health care"; and

(B) in subparagraph (B)(iii), by inserting "(according to the schedule referred to in section 1928(c)(2)(B)(i) for pediatric vaccines)" after "appropriate immunizations".

(2) EFFECTIVE DATE.—The amendments made by subparagraphs (A) and (B) of paragraph (1) shall first apply 90 days after the date the schedule referred to in subparagraphs (A)(i) and subparagraph (B)(iii) of section 1905(r)(1) of the Social Security Act (as amended by such respective subparagraphs) is first established.

(h) DENIAL OF FEDERAL FINANCIAL PARTICIPATION FOR INAPPROPRIATE ADMINISTRATION OF SINGLE-ANTIGEN VACCINE.—

(1) IN GENERAL.—Section 1903(i) (42 U.S.C. 1396b(i)), as amended by subsection (c), is amended—

(A) in paragraph (13), by striking "or" at the end,

(B) in paragraph (14), by striking the period at the end and inserting "; or", and

(C) by inserting after paragraph (14) the following new paragraph:

"(15) with respect to any amount expended for a single-antigen vaccine and its administration in any case in which the administration of a combined-antigen vaccine was medically appropriate (as determined by the Secretary).".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to amounts expended for vaccines administered on or after October 1, 1993.

(i) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall apply to payments under State plans approved under title XIX of the Social Security Act for calendar quarters beginning on or after October 1, 1994.

SEC. 13711. ENTITLEMENT FUNDING FOR SERVICES DESIGNED TO STRENGTHEN AND PRESERVE FAMILIES.

(a) IN GENERAL.—Part B of title IV (42 U.S.C. 620-628) is amended—

(1) by striking the heading and inserting the following:

"PART B—CHILD AND FAMILY SERVICES

"Subpart 1—Child Welfare Services"; AND

(2) by adding at the end the following:

"Subpart 2—Family Preservation and Support Services

"SEC. 430. PURPOSES; LIMITATIONS ON AUTHORIZATIONS OF APPROPRIATIONS; RESERVATION OF CERTAIN AMOUNTS.

"(a) PURPOSES; LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—For the purpose of encouraging and enabling each State to develop and establish, or expand, and to operate a program of family preservation services and community-based family support services, there are authorized to be appropriated to the Secretary the amounts described in subsection (b) for the fiscal years specified in subsection (b).

"(b) DESCRIPTION OF AMOUNTS.—The amount described in this subsection is—

"(1) for fiscal year 1994, $60,000,000;

"(2) for fiscal year 1995, $150,000,000;

"(3) for fiscal year 1996, $225,000,000;

"(4) for fiscal year 1997, $240,000,000; or

"(5) for fiscal year 1998, the greater of—

"(A) $255,000,000; or

"(B) the amount described in this subsection for fiscal year 1997, increased by the inflation percentage applicable to fiscal year 1998.

"(c) INFLATION PERCENTAGE.—For purposes of subsection (b)(5)(B) of this section, the inflation percentage applicable to any fiscal year is the percentage (if any) by which—

"(1) the average of the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the 12-month period ending on December 31 of the immediately preceding fiscal year; exceeds

"(2) the average of the Consumer Price Index (as so defined) for the 12-month period ending on December 31 of the 2nd preceding fiscal year.

"(d) RESERVATION OF CERTAIN AMOUNTS.—

"(1) EVALUATION, RESEARCH, TRAINING, AND TECHNICAL ASSISTANCE.—The Secretary shall reserve $2,000,000 of the amount described in subsection (b) for fiscal year 1994, and $6,000,000 of the amounts so described for each of fiscal years 1995, 1996, 1997, and 1998, for expenditure by the Secretary—

"(A) for research, training, and technical assistance related to the program under this subpart; and

"(B) for evaluation of State programs funded under this subpart and any other Federal, State, or local program, regardless of whether federally assisted, that is designed to achieve the same purposes as the program under this subpart.

"(2) STATE COURT ASSESSMENTS.—The Secretary shall reserve $5,000,000 of the amount described in subsection (b) for fiscal year 1995, and $10,000,000 of the amounts so described for each of fiscal years 1996, 1997, and 1998, for grants under section 13712 of the Omnibus Budget Reconciliation Act of 1993.

"(3) INDIAN TRIBES.—The Secretary shall reserve 1 percent of the amounts described in subsection (b) for each fiscal year, for allotment to Indian tribes in accordance with section 433(a).

"SEC. 431. DEFINITIONS.

"(a) IN GENERAL.—As used in this subpart:

"(1) FAMILY PRESERVATION SERVICES.—The term 'family preservation services' means services for children and families designed to help families (including adoptive and extended families) at risk or in crisis, including—

"(A) service programs designed to help children—

"(i) where appropriate, return to families from which they have been removed; or

"(ii) be placed for adoption, with a legal guardian, or, if adoption or legal guardianship is determined not to be appropriate for a child, in some other planned, permanent living arrangement;

"(B) preplacement preventive services programs, such as intensive family preservation programs, designed to help children at risk of foster care placement remain with their families;

"(C) service programs designed to provide followup care to families to whom a child has been returned after a foster care placement;

"(D) respite care of children to provide temporary relief for parents and other caregivers (including foster parents); and

"(E) services designed to improve parenting skills (by reinforcing parents' confidence in their strengths, and helping them to identify where improvement is needed and to obtain assistance in improving those skills) with respect to matters such as child development, family budgeting, coping with stress, health, and nutrition.

"(2) FAMILY SUPPORT SERVICES.—The term 'family support services' means community-based services to promote the well-being of children and families designed to increase the strength and stability of families (including adoptive, foster, and extended families), to increase parents' confidence and competence in their parenting abilities, to afford children a stable and supportive family environment, and otherwise to enhance child development.

"(3) STATE AGENCY.—The term 'State agency' means the State agency responsible for administering the program under subpart 1.

"(4) STATE.—The term 'State' includes an Indian tribe or tribal organization, in addition to the meaning given such term for purposes of subpart 1.

"(5) TRIBAL ORGANIZATION.—The term 'tribal organization' means the recognized governing body of any Indian tribe.

"(6) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe (as defined in section 482(i)(5)) and any Alaska Native organization (as defined in section 482(i)(7)(A)).

"(b) OTHER TERMS.—For other definitions of other terms used in this subpart, see section 475.

"SEC. 432. STATE PLANS.

"(a) PLAN REQUIREMENTS.—A State plan meets the requirements of this subsection if the plan—

"(1) provides that the State agency shall administer, or supervise the administration of, the State program under this subpart;

"(2)(A)(i) sets forth the goals intended to be accomplished under the plan by the end of the 5th fiscal year in which the plan is in operation in the State, and (ii) is updated periodically to set forth the goals intended to be accomplished under the plan by the end of each 5th fiscal year thereafter;

"(B) describes the methods to be used in measuring progress toward accomplishment of the goals;

"(C) contains assurances that the State—

"(i) after the end of each of the 1st 4 fiscal years covered by a set of goals, will perform an interim review of progress toward accomplishment of the goals, and on the basis of the interim review will revise the statement of goals in the plan, if necessary, to reflect changed circumstances; and

"(ii) after the end of the last fiscal year covered by a set of goals, will perform a final review of progress toward accomplishment of the goals, and on the basis of the final review

(I) will prepare, transmit to the Secretary, and make available to the public a final report on progress toward accomplishment of the goals, and

(II) will develop (in consultation with the entities required to be consulted pursuant to subsection (b)) and add to the plan a statement of the goals intended to be accomplished by the end of the 5th succeeding fiscal year;

“(3) provides for coordination, to the extent feasible and appropriate, of the provision of services under the plan and the provision of services or benefits under other Federal or federally assisted programs serving the same populations;

“(4) contains assurances that not more than 10 percent of expenditures under the plan for any fiscal year with respect to which the State is eligible for payment under section 434 for the fiscal year shall be for administrative costs, and that the remaining expenditures shall be for programs of family preservation services and community-based family support services with significant portions of such expenditures for each such program;

“(5) contains assurances that the State will—

“(A) annually prepare, furnish to the Secretary, and make available to the public a description (including separate descriptions with respect to family preservation services and community-based family support services) of—

“(i) the service programs to be made available under the plan in the immediately succeeding fiscal year;

“(ii) the populations which the programs will serve; and

“(iii) the geographic areas in the State in which the services will be available; and

“(B) perform the activities described in subparagraph (A)—

“(i) in the case of the 1st fiscal year under the plan, at the time the State submits its initial plan; and

“(ii) in the case of each succeeding fiscal year, by the end of the 3rd quarter of the immediately preceding fiscal year;

“(6) provides for such methods of administration as the Secretary finds to be necessary for the proper and efficient operation of the plan;

“(7)(A) contains assurances that Federal funds provided to the State under this subpart will not be used to supplant Federal or non-Federal funds for existing services and activities which promote the purposes of this subpart; and

“(B) provides that the State will furnish reports to the Secretary, at such times, in such format, and containing such information as the Secretary may require, that demonstrate the State's compliance with the prohibition contained in subparagraph (A); and

“(8) provides that the State agency will furnish such reports, containing such information, and participate in such evaluations, as the Secretary may require.

"(b) APPROVAL OF PLANS.—

"(1) IN GENERAL.—The Secretary shall approve a plan that meets the requirements of subsection (a) only if the plan was developed jointly by the Secretary and the State, after consultation by the State agency with appropriate public and nonprofit private agencies and community-based organizations with experience in administering programs of services for children and families (including family preservation and family support services).

"(2) PLANS OF INDIAN TRIBES.—

"(A) EXEMPTION FROM INAPPROPRIATE REQUIREMENTS.—The Secretary may exempt a plan submitted by an Indian tribe from any requirement of this section that the Secretary determines would be inappropriate to apply to the Indian tribe, taking into account the resources, needs, and other circumstances of the Indian tribe.

"(B) SPECIAL RULE.—Notwithstanding subparagraph (A) of this paragraph, the Secretary may not approve a plan of an Indian tribe under this subpart to which (but for this subparagraph) an allotment of less than $10,000 would be made under section 433(a) if allotments were made under section 433(a) to all Indian tribes with plans approved under this subpart with the same or larger numbers of children.

"SEC. 433. ALLOTMENTS TO STATES.

"(a) INDIAN TRIBES.—From the amount reserved pursuant to section 430(d)(3) for any fiscal year, the Secretary shall allot to each Indian tribe with a plan approved under this subpart an amount that bears the same ratio to such reserved amount as the number of children in the Indian tribe bears to the total number of children in all Indian tribes with State plans so approved, as determined by the Secretary on the basis of the most current and reliable information available to the Secretary.

"(b) TERRITORIES.—From the amount described in section 430(b) for any fiscal year that remains after applying section 430(d) for the fiscal year, the Secretary shall allot to each of the jurisdictions of Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, and American Samoa an amount determined in the same manner as the allotment to each of such jurisdictions is determined under section 421.

"(c) OTHER STATES.—

"(1) IN GENERAL.—From the amount described in section 430(b) for any fiscal year that remains after applying section 430(d) and subsection (b) of this section for the fiscal year, the Secretary shall allot to each State (other than an Indian tribe) which is not specified in subsection (b) of this section an amount equal to such remaining amount multiplied by the food stamp percentage of the State for the fiscal year.

"(2) FOOD STAMP PERCENTAGE DEFINED.—

"(A) IN GENERAL.—As used in paragraph (1) of this subsection, the term 'food stamp percentage' means, with respect to a State and a fiscal year, the average monthly number of children receiving food stamp benefits in the State for months in the 3 fiscal years referred to in subparagraph (B) of this paragraph, as determined from sample surveys made under section 16(c) of the Food Stamp Act of 1977, expressed as a percentage of the average monthly number of children receiving food stamp benefits in the States described in such paragraph (1) for months in such 3 fiscal years, as so determined.

"(B) FISCAL YEARS USED IN CALCULATION.—For purposes of the calculation pursuant to subparagraph (A), the Secretary shall use data for the 3 most recent fiscal years, preceding the fiscal year for which the State's allotment is calculated under this subsection, for which such data are available to the Secretary.

"SEC. 434. PAYMENTS TO STATES.

"(a) ENTITLEMENT.—

"(1) GENERAL RULE.—Except as provided in paragraph (2) of this subsection, each State which has a plan approved under this subpart shall be entitled to payment of the lesser of—

"(A) 75 percent of the total expenditures by the State for activities under the plan during the fiscal year or the immediately succeeding fiscal year; or

"(B) the allotment of the State under section 433 for the fiscal year.

"(2) SPECIAL RULE.—Upon submission by a State to the Secretary during fiscal year 1994 of an application in such form and containing such information as the Secretary may require (including, if the State is seeking payment of an amount pursuant to subparagraph (B) of this paragraph, a description of the services to be provided with the amount), the State shall be entitled to payment of an amount equal to the sum of—

"(A) such amount, not exceeding $1,000,000, from the allotment of the State under section 433 for fiscal year 1994, as the State may require to develop and submit a plan for approval under section 432; and

"(B) an amount equal to the lesser of—

"(i) 75 percent of the expenditures by the State for services to children and families in accordance with the application and the expenditure rules of section 432(a)(4); or "(ii) the allotment of the State under section 433 for fiscal year 1994, reduced by any amount paid to the State pursuant to subparagraph (A) of this paragraph.

"(b) PROHIBITIONS.—

"(1) NO USE OF OTHER FEDERAL FUNDS FOR STATE MATCH.—Each State receiving an amount paid under paragraph (1) or (2)(B) of subsection (a) may not expend any Federal funds to meet the costs of services described in this subpart not covered by the amount so paid.

"(2) AVAILABILITY OF FUNDS.—A State may not expend any amount paid under subsection (a)(1) for any fiscal year after the end of the immediately succeeding fiscal year.

"(c) DIRECT PAYMENTS TO TRIBAL ORGANIZATIONS OF INDIAN TRIBES.—The Secretary shall pay any amount to which an Indian tribe is entitled under this section directly to the tribal organization of the Indian tribe.

"SEC. 435. EVALUATIONS.

"(a) EVALUATIONS.—

"(1) IN GENERAL.—The Secretary shall evaluate the effectiveness of the programs carried out pursuant to this subpart in accomplishing the purposes of this subpart, and may evaluate any other Federal, State, or local program, regardless of whether federally assisted, that is designed to achieve the same purposes as the program under this subpart, in accordance with criteria established in accordance with paragraph (2).

"(2) CRITERIA TO BE USED.—In developing the criteria to be used in evaluations under paragraph (1), the Secretary shall consult with appropriate parties, such as—

"(A) State agencies administering programs under this part and part E;

"(B) persons administering child and family services programs (including family preservation and family support programs) for private, nonprofit organizations with an interest in child welfare; and

"(C) other persons with recognized expertise in the evaluation of child and family services programs (including family preservation and family support programs) or other related programs.

"(b) COORDINATION OF EVALUATIONS.—The Secretary shall develop procedures to coordinate evaluations under this section, to the extent feasible, with evaluations by the States of the effectiveness of programs under this subpart.".

(b) CONFORMING AMENDMENTS.—

(1) Section 422 (42 U.S.C. 622) is amended—

(A) in subsection (a), by striking "this part" and inserting "this subpart";

(B) in subsection (b), by striking "this part" each place such term appears and inserting "this subpart"; and

(C) in subsection (b)(2), by inserting "under the State plan approved under subpart 2 of this part," after "part A of this title,".

(2) Section 423(a) (42 U.S.C. 623(a)) is amended by striking "this part" and inserting "this subpart".

(3) Section 428(a) (42 U.S.C. 628(a)) is amended by striking "this part" each place such term appears and inserting "this subpart".

(4) Section 471(a)(2) (42 U.S.C. 671(a)(2)) is amended by inserting "subpart 1 of" before "part B".

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to calendar quarters beginning on or after October 1, 1993.

P.L. 102-531—PREVENTIVE HEALTH AMENDMENTS OF 1992

SEC. 302. ESTABLISHMENT OF OFFICE OF ADOLESCENT HEALTH.

Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended by adding at the end the following section:

"OFFICE OF ADOLESCENT HEALTH

"Sec. 1708. (a) IN GENERAL.—There is established an Office of Adolescent Health within the Office of the Assistant Secretary for Health, which office shall be headed by a director appointed by the Secretary. The Secretary shall carry out this section acting through the Director of such Office.

"(b) DUTIES.—With respect to adolescent health, the Secretary shall—

"(1) coordinate all activities within the Department of Health and Human Services that relate to disease prevention, health promotion, preventive health services, and health information and education with respect to the appropriate use of health care, including coordinating—

"(A) the design of programs, support for programs, and the evaluation of programs;

"(B) the monitoring of trends;

"(C) projects of research (including multidisciplinary projects) on adolescent health; and

"(D) the training of health providers who work with adolescents, particularly nurse practitioners, physician assistants, and social workers;

"(2) coordinate the activities described in paragraph (1) with similar activities in the private sector; and

"(3) support projects, conduct research, and disseminate information relating to preventive medicine, health promotion, and physical fitness and sports medicine.

"(c) CERTAIN DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—In carrying out subsection (b)(3), the Secretary may make grants to carry out demonstration projects for the purpose of improving adolescent health, including projects to train health care providers in providing services to adolescents and projects to reduce the incidence of violence among adolescents, particularly among minority males.

"(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated $5,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

"(d) INFORMATION CLEARINGHOUSE.—In carrying out subsection (b), the Secretary shall establish and maintain a

National Information Clearinghouse on Adolescent Health to collect and disseminate to health professionals and the general public information on adolescent health.

"(e) NATIONAL PLAN.—In carrying out subsection (b), the Secretary shall develop a national plan for improving adolescent health. The plan shall be consistent with the applicable objectives established by the Secretary for the health status of the people of the United States for the year 2000, and shall be periodically reviewed, and as appropriate, revised. The plan, and any revisions in the plan, shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

"(f) ADOLESCENT HEALTH.—For purposes of this section, the term 'adolescent health', with respect to adolescents of all ethnic and racial groups, means all diseases, disorders, and conditions (including with respect to mental health)—

"(1) unique to adolescents, or more serious or more prevalent in adolescents;

"(2) for which the factors of medical risk or types of medical intervention are different for adolescents, or for which it is unknown whether such factors or types are different for adolescents; or

"(3) with respect to which there has been insufficient clinical research involving adolescents as subjects or insufficient clinical data on adolescents.".

SEC. 303. LEAD POISONING PREVENTION.

(a) IN GENERAL.—Section 317A of the Public Health Service Act (42 U.S.C. 247b-1) is amended to read as follows:

"SCREENINGS, REFERRALS, AND EDUCATION REGARDING LEAD POISONING

"SEC. 317A. (a) AUTHORITY FOR GRANTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States and political subdivisions of States for the initiation and expansion of community programs designed—

"(A) to provide, for infants and children—

"(i) screening for elevated blood lead levels;

"(ii) referral for treatment of such levels; and

"(iii) referral for environmental intervention associated with such levels; and

"(B) to provide education about childhood lead poisoning.

"(2) AUTHORITY REGARDING CERTAIN ENTITIES.—With respect to a geographic area with a need for activities authorized in paragraph (1), in any case in which neither the State nor the political subdivision in which such area is located has applied for a grant under paragraph (1), the Secretary may make a grant under such paragraph to any grantee under section 329, 330, 340, or 340A for carrying out such activities in the area.

"(3) PROVISION OF ALL SERVICES AND ACTIVITIES THROUGH EACH GRANTEE.—In making grants under paragraph (1), the Secretary shall ensure that each of the activities described in such paragraph is provided through each grantee under such paragraph. The Secretary may authorize such a grantee to provide the services and activities directly, or through arrangements with other providers.

"(b) STATUS AS MEDICAID PROVIDER.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may not make a grant under subsection (a) unless, in the case of any service described in such subsection that is made available pursuant to the State plan approved under title XIX of the Social Security Act for the State involved—

"(A) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(B) the applicant will enter into an agreement with a provider under which the provider will provide the service, and the provider has entered into such a participation agreement and is qualified to receive such payments.

"(2) WAIVER REGARDING CERTAIN SECONDARY AGREEMENTS.—

"(A) In the case of a provider making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the provider does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits plan.

"(B) A determination by the Secretary of whether a provider referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the provider accepts voluntary donations regarding the provision of services to the public.

"(c) PRIORITY IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give priority to applications for programs that will serve areas with a high incidence of elevated blood lead levels in infants and children.

"(d) GRANT APPLICATION.—No grant may be made under subsection (a), unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and shall be submitted in such manner as the

Secretary shall prescribe and shall include each of the following:

"(1) A complete description of the program which is to be provided by or through the applicant.

"(2) Assurances satisfactory to the Secretary that the program to be provided under the grant applied for will include educational programs designed to—

"(A) communicate to parents, educators, and local health officials the significance and prevalence of lead poisoning in infants and children (including the sources of lead exposure, the importance of screening young children for lead, and the preventive steps that parents can take in reducing the risk of lead poisoning) which the program is designed to detect and prevent; and

"(B) communicate to health professionals and paraprofessionals updated knowledge concerning lead poisoning and research (including the health consequences, if any, of low-level lead burden; the prevalence of lead poisoning among all socioeconomic groupings; the benefits of expanded lead screening; and the therapeutic and other interventions available to prevent and combat lead poisoning in affected children and families).

"(3) Assurances satisfactory to the Secretary that the applicant will report on a quarterly basis the number of infants and children screened for elevated blood lead levels, the number of infants and children who were found to have elevated blood lead levels, the number and type of medical referrals made for such infants and children, the outcome of such referrals, and other information to measure program effectiveness.

"(4) Assurances satisfactory to the Secretary that the applicant will make such reports respecting the program involved as the Secretary may require.

"(5) Assurances satisfactory to the Secretary that the applicant will coordinate the activities carried out pursuant to subsection (a) with related activities and services carried out in the State by grantees under title V or XIX of the Social Security Act.

"(6) Assurances satisfactory to the Secretary that Federal funds made available under such a grant for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program for which the grant is to be made and will in no event supplant such State, local, and other non-Federal funds.

"(7) Such other information as the Secretary may prescribe.

"(e) RELATIONSHIP TO SERVICES AND ACTIVITIES UNDER OTHER PROGRAMS.—

"(1) IN GENERAL.—A recipient of a grant under subsection (a) may not make payments from the grant for any service or activity to the extent that payment has been made, or can reasonably be expected to be made, with respect to such service or activity—

"(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(B) by an entity that provides health services on a prepaid basis.

"(2) APPLICABILITY TO CERTAIN SECONDARY AGREEMENTS FOR PROVISION OF SERVICES.—Paragraph (1) shall not apply in the case of a provider through which a grantee under subsection (a) provides services under such subsection if the Secretary has provided a waiver under subsection (b)(2) regarding the provider.

"(f) METHOD AND AMOUNT OF PAYMENT.—The Secretary shall determine the amount of a grant made under subsection (a). Payments under such grants may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants. Not more than 10 percent of any grant may be obligated for administrative costs.

"(g) SUPPLIES, EQUIPMENT, AND EMPLOYEE DETAIL.—The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies or equipment furnished the grant recipient; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

"(h) RECORDS.—Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(i) AUDIT AND EXAMINATION OF RECORDS.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of a grant under subsection (a), that are pertinent to such grant.

"(j) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than May 1 of each year, the Secretary shall submit to the Congress a report on the effectiveness during the preceding fiscal year of programs carried out with grants under subsection (a) and of any programs that are carried out by the Secretary pursuant to subsection (l)(2).

"(2) CERTAIN REQUIREMENTS.—Each report under paragraph (1) shall include, in addition to any other information that the Secretary may require, the following information:

"(A) The number of infants and children screened.

"(B) Demographic information on the population of infants and children screened, including the age and racial or ethnic status of such population.

"(C) The number of screening sites.

"(D) A description of the severity of the extent of the blood lead levels of the infants and children screened, expressed in categories of severity.

"(E) The sources of payment for the screenings.

"(F) A comparison of the data provided pursuant to subparagraphs (A) through (E) with the equivalent data, if any, provided in the report under paragraph (1) preceding the report involved.

"(k) INDIAN TRIBES.—For purposes of this section, the term 'political subdivision' includes Indian tribes.

"(l) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $40,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

"(2) ALLOCATION FOR OTHER PROGRAMS.—Of the amounts appropriated under paragraph (1) for any fiscal year, the Secretary may reserve not more than 20 percent for carrying out programs regarding the activities described in subsection (a) in addition to the program of grants established in such subsection.".

(b) OTHER PROGRAMS.—Part A of title III of the Public Health

Service Act (42 U.S.C. 241 et seq.) is amended by inserting after section 317A the following section:

"EDUCATION, TECHNOLOGY ASSESSMENT, AND EPIDEMIOLOGY REGARDING LEAD POISONING

"SEC. 317B. (a) PREVENTION.—

"(1) PUBLIC EDUCATION.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall carry out a program to educate health professionals and paraprofessionals and the general public on the prevention of lead poisoning in infants and children. In carrying out the program, the Secretary shall make available information concerning the health effects of low-level lead toxicity, the causes of lead poisoning, and the primary and secondary preventive measures that may be taken to prevent such poisoning.

"(2) INTERAGENCY TASK FORCE.—

"(A) Not later than 6 months after the date of the enactment of the Preventive Health Amendments of 1992, the Secretary shall establish a council to be known as the Interagency Task Force on the Prevention of Lead Poisoning (in this paragraph referred to as the 'Task Force'). The Task Force shall coordinate the efforts of Federal agencies to prevent lead poisoning.

"(B) The Task Force shall be composed of—

"(i) the Secretary, who shall serve as the chair of the Task Force;

"(ii) the Secretary of Housing and Urban Development;

"(iii) the Administrator of the Environmental Protection Agency; and

"(iv) senior staff of each of the officials specified in clauses (i) through (iii), as selected by the officials respectively.

"(C) The Task Force shall—

"(i) review, evaluate, and coordinate current strategies and plans formulated by the officials serving as members of the Task Force, including—

"(I) the plan of the Secretary of Health and Human Services entitled "Strategic Plan for the Elimination of Lead Poisoning", dated February 21, 1991;

"(II) the plan of the Secretary of Housing and Urban Development entitled "Comprehensive and Workable Plan for the Abatement of Lead-Based Paint in Privately Owned Housing", dated December 7, 1990; and

"(III) the strategy of the Administrator of the Environmental Protection Agency entitled "Strategy for Reducing Lead Exposures", dated February 21, 1991;

"(ii) develop a unified implementation plan for programs that receive Federal financial assistance for activities related to the prevention of lead poisoning;

"(iii) establish a mechanism for sharing and disseminating information among the agencies represented on the Task Force;

"(iv) identify the most promising areas of research and education concerning lead poisoning;

"(v) identify the practical and technological constraints to expanding lead poisoning prevention;

"(vi) annually carry out a comprehensive review of Federal programs providing assistance to prevent lead poisoning, and not later than May 1 of each year, submit to the Committee on Labor and Human Resources of the Senate and the Committee on the Environment and Public Works of the Senate, and to the Committee on Energy and Commerce of the House of Representatives, a report that summarizes the findings made as a result of such review and that contains the recommendations of the Task Force on the programs and policies with respect to which the Task Force is established, including related budgetary recommendations; and

"(vii) annually review and coordinate departmental and agency budgetary requests with respect to all lead poisoning prevention activities of the Federal Government.

"(b) TECHNOLOGY ASSESSMENT AND EPIDEMIOLOGY.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, directly or through grants or contracts—

"(1) provide for the development of improved, more cost-effective testing measures for detecting lead toxicity in children;

"(2) provide for the development of improved methods of assessing the prevalence of lead poisoning, including such methods as may be necessary to conduct individual assessments for each State;

"(3) provide for the collection of data on the incidence and prevalence of lead poisoning of infants and children, on the demographic characteristics of infants and children with such poisoning (including racial and ethnic status), and on the source of payment for treatment for such poisoning (including the extent to which insurance has paid for such treatment); and

"(4) provide for any applied research necessary to improve the effectiveness of programs for the prevention of lead poisoning in infants and children.".

SEC. 306. STATE PROGRAMS REGARDING DATA ON BIRTH DEFECTS.

(a) IN GENERAL.—Part A of title III of the Public Health Service Act, as amended by section 303(b) of this Act, is amended by inserting after section 317B the following section:

"COLLECTION OF DATA ON BIRTH DEFECTS

"SEC. 317C. (a) STATE PROGRAMS.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall encourage States to establish or improve programs for the collection and analysis of epidemiological data on birth defects.

"(2) PROVISION OF ASSISTANCE.—The Secretary may, directly or through grants, cooperative agreements, or contracts, provide assistance to States regarding the purpose specified in subsection (a).

"(b) NATIONAL CLEARINGHOUSE.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish and maintain a National Information Clearinghouse on Birth Defects to collect and disseminate to health professionals and the general public information on birth defects, including the prevention of such defects.

"(c) REPORT.—Not later than July 1, 1993, and biennially thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report describing activities carried out under this section and containing any recommendations of the Secretary regarding this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $5,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.".

P.L. 101-476—INDIVIDUALS WITH DISABILITIES EDUCATION ACT, PART H

SEC. 101. DEFINITIONS.

(a) HANDICAPPED CHILDREN.—Section 602(a)(1) (20 U.S.C. 1401(a)(1)) is amended to read as follows:

"(1) The term 'children with disabilities' means children—

"(A) with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

"(B) who, by reason thereof need special education and related services.".

(b) SPECIAL EDUCATION.—Section 602(a)(16) (20 U.S.C. 1401(a)(16)) is amended by striking "including classroom instruction" and all that follows and inserting the following: "including—

"(A) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

"(B) instruction in physical education.".

(c) RELATED SERVICES.—Section 602(a)(17) (20 U.S.C. 1401(a)(17)) is amended—

(1) by striking "recreation," and inserting "recreation, including therapeutic recreation and social work services,"; and

(2) by inserting ", including rehabilitation counseling," after "counseling services,".

(d) TRANSITION SERVICES.—Section 602(a) (20 U.S.C. 1401(a)) is amended by redesignating paragraphs (19) through (23) as paragraphs (20) through (24), respectively, and by inserting after paragraph (18) the following new paragraph:

"(19) The term 'transition services' means a coordinated set of activities for a student, designed within an outcome-oriented process, which promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post-school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.".

(e) INDIVIDUALIZED EDUCATION PROGRAM.—Section 602(a)(20), as redesignated by subsection (d) of this section, is amended—

(1) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) a statement of the needed transition services for students beginning no later than age 16 and annually thereafter (and, when determined appropriate for the individual, beginning at age 14 or younger), including, when appropriate, a statement of the interagency responsibilities or linkages (or both) before the student leaves the school setting,", and

(2) by inserting after subparagraph (F) (as so redesignated) the following: "In the case where a participating agency, other than the educational agency, fails to provide agreed upon services, the educational agency shall reconvene the IEP team to identify alternative strategies to meet the transition objectives.".

(f) PUBLIC OR PRIVATE NONPROFIT AGENCY OR ORGANIZATION.—Section 602(a)(24)(A), as redesignated by subsection (d) of this section, is amended by inserting before the period the following: "and the Bureau of Indian Affairs of the Department of the Interior (when acting on behalf of schools operated by the Bureau for children and students on Indian reservations) and tribally controlled schools funded by the Department of the Interior".

(g) ASSISTIVE TECHNOLOGY DEVICE.—Section 602(a), as amended by subsection (d) of this section, is amended by adding at the end the following new paragraph:

"(25) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.".

(h) ASSISTIVE TECHNOLOGY SERVICE.—Section 602(a), as amended by subsection (g) of this section, is amended by adding at the end the following new paragraph:

"(26) The term 'assistive technology service' means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the individual's customary environment;

"(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for an individual with disabilities, or, where appropriate, the family of an individual with disabilities; and

"(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.".

(i) UNDERREPRESENTED.—Section 602(a), as amended by subsection (h) of this section, is amended by adding at the end the following new paragraph:

"(27) The term 'underrepresented' means populations such as minorities, the poor, the limited English proficient, and individuals with disabilities.".

P.L. 89-642—CHILD NUTRITION AMENDMENTS OF 1966, AS AMENDED

SPECIAL SUPPLEMENTAL FOOD PROGRAM

SEC. 17. (a) Congress finds that substantial numbers of pregnant, postpartum, and breastfeeding women, infants, and young children from families with inadequate income are at special risk with respect to their physical and mental health by reason of inadequate nutrition or health care, or both. It is, therefore, the purpose of the program authorized by this section to provide, up to the authorization levels set forth in subsection (g) of this section, supplemental foods and nutrition education through any eligible local agency that applies for participation in the program. The program shall serve as an adjunct to good health care, during critical times of growth and development, to prevent the occurrence of health problems and improve the health status of these persons.

(b) As used in this section—

(1) "Administrative costs" means costs that shall include, but not be limited to, costs for certification of eligibility of persons for participation in the program; centrifuges, measuring boards, spectrophotometers, and scales used for such certification; food delivery; monitoring; nutrition education; outreach; start-up costs; and general administration applicable to implementation of the program under this section, such as the cost of staff, warehouse facilities, transportation, insurance, developing and printing food instruments, and administration of State and local agency offices.

(2) "Breastfeeding women" means women up to one year postpartum who are breastfeeding their infants.

(3) "Children" means persons who have had their first birthday but have not yet attained their fifth birthday.

(4) "Competent professional authority" means physicians, nutritionists, registered nurses, dietitians, or State or local medically trained health officials, or persons designated by physicians or State or local medically trained health officials, in accordance with standards prescribed by the Secretary, as being competent professionally to evaluate nutritional risk.

(5) "Infants" means persons under one year of age.

(6) "'Local agency" means a public health or welfare agency or a private nonprofit health or welfare agency, which, directly or through an agency or physician with which it has contracted, provides health services. The term shall include an Indian tribe, band, or group recognized by the Department of the Interior, the Indian Health Service of the Department of Health, Education, and Welfare, or an intertribal council or group that is an authorized representative of Indian tribes,

bands, or groups recognized by the Department of the Interior.

(7) "Nutrition education" means individual or group sessions and the provision of materials designed to improve health status that achieve positive change in dietary habits, and emphasize relationships between nutrition and health, all in keeping with the individual's personal, cultural, and socioeconomic preferences.

(8) "Nutritional risk" means (A) detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements, (B) other documented nutritionally related medical conditions, (C) dietary deficiencies that impair or endanger health, or (D) conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions, including, but not limited to, alcoholism and drug addiction.

(9) "Plan of operation and administration" means a document that describes the manner in which the State agency intends to implement and operate the program.

(10) "Postpartum women" means women up to six months after termination of pregnancy.

(11) "Pregnant women" means women determined to have one or more fetuses in utero.

(12) "Secretary" means the Secretary of Agriculture.

(13) "State agency" means the health department or comparable agency of each State; an Indian tribe, band, or group recognized by the Department of the Interior; an intertribal council or group that is the authorized representative of Indian tribes, bands, or groups recognized by the Department of the Interior; or the Indian Health Service of the Department of Health, Education, and Welfare.

(14) "'Supplemental foods" means those foods containing nutrients determined by nutritional research to be lacking in the diets of pregnant, breastfeeding, and postpartum women, infants, and children, as prescribed by the Secretary. State agencies may, with the approval of the Secretary, substitute different foods providing the nutritional equivalent of foods prescribed by the Secretary, to allow for different cultural eating patterns.

(c)(1) The Secretary may carry out a special supplemental food program to assist State agencies through grants-in-aid and other means to provide, through local agencies, at no cost, supplemental foods and nutrition education to low-income pregnant, postpartum, and breastfeeding women, infants, and children who satisfy the eligibility requirements specified in subsection (d) of this section. The program shall be supplementary to the food stamp program (91 Stat. 958) and to any program under which foods are distributed to needy families in lieu of food stamps.

(2) Subject to the authorization levels specified in subsection

(g) of this section for the fiscal years ending September 30, 1979, and September 30, 1980, and subject to amounts appropriated for this program for the fiscal years ending September 30, 1981, and September 30, 1982—

(A) the Secretary shall make cash grants to State agencies for the purpose of administering the program, and

(B) any State agency approved eligible local agency that applies to participate in or expand the program under this section shall immediately be provided with the necessary funds to carry out the program.

(3) Nothing in this subsection shall be construed to permit the Secretary to reduce ratably the amount of foods that an eligible local agency shall distribute under the program to participants. The Secretary shall take affirmative action to ensure that the program is instituted in areas most in need of supplemental foods. The existence of a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977 shall not preclude the approval of an application from an eligible local agency to participate in the program under this section nor the operation of such program within the same geographic area as that of the commodity supplemental food program, but the Secretary shall issue such regulations as are necessary to prevent dual receipt of benefits under the commodity supplemental food program and the program under this section.

(d)(1) Participation in the program under this section shall be limited to pregnant, postpartum, and breastfeeding women, infants, and children from low-income families who are determined by a competent professional authority to be at nutritional risk.

(2) The Secretary shall establish income eligibility standards to be used in conjunction with the nutritional risk criteria in determining eligibility of persons for participation in the program. Persons at nutritional risk shall be eligible for the program only if they are members of families that satisfy the income standards prescribed for free and reduced-price school meals under section 9 of the National School Lunch Act.

(3) Persons shall be certified for participation in accordance with general procedures prescribed by the Secretary.

(e)(1) The State agency shall ensure that nutrition education is provided to all pregnant, postpartum, and breastfeeding participants in the program and to parents or caretakers of infant and child participants in the program. The State agency may also provide nutrition education to pregnant, postpartum, and breastfeeding women and to parents or caretakers of infants and children enrolled at local agencies operating the program under this section who do not participate in the program. The Secretary shall prescribe standards to ensure that adequate nutrition education services are provided. The State agency shall provide training to persons providing nutrition education under this section. Nutrition education shall be evaluated annually by each State agency, and such evaluation shall include the views of participants concerning the effectiveness of the nutrition education they have received.

(2) The Secretary shall, after submitting proposed nutrition education materials to the Secretary of Health, Education, and Welfare for comment, issue such materials for use in the program under this section.

(f)(1) Each State agency shall submit annually to the Secretary, by a date specified by the Secretary, a plan of operation and administration for approval by the Secretary as a prerequisite to receiving funds under this section. The plan shall include, among such other information as the Secretary may require—

(A) a description of how the State agency will distribute administrative funds, including start-up funds, to local agencies operating under the program;

(B) a description of the State agency's financial management system;

(C) a description of methods used to determine nutritional risk;

(D) a budget for administrative funds;

(E) the staffing pattern;

(F) nutrition education goals and action plans, including a description of the methods that will be used to meet the special nutrition education needs of migrants and Indians;

(G) plans to provide program benefits under this section to eligible migrants and Indians;

(H) a list of all areas and special populations, in priority order based on relative need, within the jurisdiction of the State agency, and the State agency's plans to initiate or expand operations under the program in areas most in need of supplemental foods, including plans to inform nonparticipating local agencies of the availability and benefits of the program and the availability of technical assistance in implementing the program, and a description of how the State agency will take all reasonable actions to identify potential local agencies and encourage such agencies to implement or expand operations under the program within the following year in the neediest one-third of all areas unserved or partially served;

(I) a description of how the State agency's delivery system will enable low-income persons to receive supplemental foods under this program in accordance with standards developed by the Secretary;

(J) the State agency's plans for informing eligible persons of the program under this section in accordance with paragraph (8) of this subsection;

(K) a description of how the State agency plans to coordinate operations under the program with special counseling services such as, but not limited to, the expanded food and nutrition education program, family planning, immunization, prenatal care, well-child care, alcohol and drug abuse counseling, child abuse counseling, and with the food stamp program; and

(L) a copy of the procedure manual developed by the State agency for the program under this section.

The Secretary shall not approve any plan that permits any person to participate simultaneously in both the program authorized under this section and the commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977.

(2) Not less than one month prior to the submission to the Governor of the plan of operation and administration required by this subsection, the State agency shall conduct hearings to enable the general public to participate in the development of the State agency plan.

(3) The Secretary shall establish procedures under which eligible migrants may, to the maximum extent feasible, continue to participate in the program under this section when they are present in States other than the State in which they were originally certified for participation in the program. Each State agency shall be responsible for administering the program for migrant populations within its jurisdiction.

(4) State agencies shall submit monthly financial reports and participation data to the Secretary.

(5) State and local agencies operating under the program shall keep such accounts and records, including medical records, as may be necessary to enable the Secretary to determine whether there has been compliance with this section and to determine and evaluate the benefits of the nutritional assistance provided under this section. Such accounts and records shall at all times be available for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.

(6) The State agency, upon receipt of a completed application from a local agency for participation in the program (and the Secretary, upon receipt of a completed application from a State agency), shall notify the applicant agency in writing within thirty days of the approval or disapproval of the application, and any disapproval shall be accompanied with a statement of the reasons for such disapproval. Within fifteen days after receipt of an incomplete application, the State agency (or the Secretary) shall notify the applicant agency of the additional information needed to complete the application.

(7) Local agencies participating in the program under this section shall notify persons of their eligibility or ineligibility for the program within twenty days of the date that the household, during office hours of a local agency, personally makes an oral or written request to participate in the program. The Secretary shall

establish a shorter notification period for categories of persons who, due to special nutritional risk conditions, must receive benefits more expeditiously.

(8) The State agency shall, in cooperation with participating local agencies, publicize the availability of program benefits, including the eligibility criteria for participation and the location of local agencies operating the program. Such information shall be publicly announced by the State agency and by local agencies at least annually. Such information shall also be distributed to offices and organizations that deal with significant numbers of potentially eligible persons, including health and medical organizations, hospitals and clinics, welfare and unemployment offices, social service agencies, farmworker organizations, Indian tribal organizations, and religious and community organizations in low-income areas.

(9) The State agency shall grant a fair hearing, and a prompt determination thereafter, in accordance with regulations issued by the Secretary, to any applicant, participant, or local agency aggrieved by the action of a State or local agency as it affects participation.

(10) If a person certified as eligible for participation in the program under this section in one area moves to another area in which the program is operating, that person's certification of eligibility shall remain valid for the period for which the person was originally certified.

(11) The Secretary shall establish standards for the proper, efficient, and effective administration of the program, including standards that will ensure sufficient State agency staff. If the Secretary determines that a State agency has failed without good cause to administer the program in a manner consistent with this section or to implement the approved plan of operation and administration under this subsection, the Secretary may withhold such amounts of the State agency's administrative funds as the Secretary deems appropriate. Upon correction of such failure during a fiscal year by a State agency, any funds so withheld for such fiscal year shall be provided the State agency.

(12) The Secretary shall prescribe by regulation the supplemental foods to be made available in the program under this section. To the degree possible, the Secretary shall assure that the fat, sugar, and salt content of the prescribed foods is appropriate. Products specifically designed for pregnant, postpartum, and breastfeeding women, or infants shall be available at the discretion of the Secretary if the products are commercially available or are justified to and approved by the Secretary based on clinical tests performed in accordance with standards prescribed by the Secretary.

(13) A competent professional authority shall be responsible for prescribing the appropriate supplemental foods, taking into account medical and nutritional conditions and cultural eating

patterns.

(14) The State agency shall (A) provide nutrition education materials and instruction in languages other than English and (B) use appropriate foreign language materials in the administration of the program, in areas in which a substantial number of low-income households speak a language other than English.

(g) There] are hereby authorized to be appropriated $550,000,000 for the fiscal year ending September 30, 1979, $800,000,000 for the fiscal year ending September 30, 1980, $900,000,000 for the fiscal year ending September 30, 1981, and $950,000,000 for the fiscal year ending September 30, 1982, for the purpose of carrying out the program authorized by this section. Of the sums appropriated for any fiscal year for the program under this section, one-half of 1 percent, not to exceed $3,000,000, shall be available to the Secretary for the purpose of evaluating program performance, evaluating health benefits, and administration of pilot projects, including projects designed to meet the special needs of migrants, Indians, and rural populations.

(h)(1) The Secretary shall make 20 percent of the funds provided under this section each fiscal year (other than funds expended for evaluation and pilot projects under subsection (g) of this section) available for State agency and local agency administrative costs. When reallocating funds, the Secretary may exceed the 20 percent limitation for administrative costs if the Secretary determines such action necessary for the proper, efficient, and effective administration of the program. Not less than one-sixth of the funds expended by each State agency for administrative costs under this subsection shall be used for nutrition education activities, unless the State agency requests that it be authorized to expend a lesser amount and such request is accompanied by documentation that other funds will be used to conduct such activities.

(2) The Secretary, for each of the fiscal years 1979 through 1982, shall allocate administrative funds to each State agency on the basis of a formula determined by the Secretary, which shall include a minimum amount, and which shall be designed to take into account the varying needs of State agencies based on factors such as the number of local agencies and the number of persons participating in the program at those agencies.

(3) Each State agency shall provide, from its allocation for administrative funds, funds to local agencies for their administrative costs. Each State agency shall distribute administrative funds to local agencies under allocation standards developed by the State agency in cooperation with the several local agencies, which satisfy allocation guidelines established by the Secretary. Such allocation standards shall take into account factors deemed appropriate to further proper, efficient, and effective administration of the program, such as local agency

staffing needs, density of population, number of persons served, and availability of administrative support from other sources. These allocation standards shall be included in the plan of operation and administration required by subsection (f) of this section.

(4) The State agency shall forward in advance to local agencies those administrative funds necessary for successful commencement of program operations under this section during the three months following approval or until a program reaches its projected caseload level, whichever comes first.

(i) By the beginning of each fiscal year, the Secretary shall divide, among the State agencies, the funds provided in accordance with this section on the basis of a formula determined by the Secretary. Each State agency's allocation, as so determined, shall constitute the State agency's authorized operational level for that year, except that the Secretary shall reallocate funds periodically if the Secretary determines that a State agency is unable to spend its allocation. For purposes of the formula, if Indians are served by the health department of a State, the formula shall be based on the State population inclusive of the Indians within the State boundaries. If Indians residing in the State are served by a State agency other than the health department of the State, the population of the tribes within the jurisdiction of the State being so served shall not be included in the formula for such States and shall instead be included in the formula for the State agency serving the Indians. Notwithstanding any other provision of this section, the Secretary may use a portion of a State agency's allocation to purchase supplemental foods for donation to the State agency under this section.

(j) By October 1 of each year, the Secretary shall prepare a report describing plans to ensure that, to the maximum extent feasible, eligible members of migrant populations continue to participate in the program as such persons move among States. The report shall be made available to the National Advisory Council on Maternal, Infant, and Fetal Nutrition.

(k) (1) There is hereby established a National Advisory Council on Maternal, Infant, and Fetal Nutrition (referred to in this subsection as the "Council") composed of twenty-one members appointed by the Secretary. One member shall be a State director of a program under this section; one member shall be a State official responsible for a commodity supplemental food program under section 1304 of the Food and Agriculture Act of 1977; one member shall be a State fiscal officer of a program under this section (or the equivalent thereof); one member shall be a State health officer (or the equivalent thereof); one member shall be a local agency director of a program under this section in an urban area; one member shall be a local agency director of a program under this section in a rural area; one member shall be a project director of a commodity supplemental food program; one member shall be a State public health nutrition director (or the equivalent thereof); one member shall be a representative of an organization serving migrants; one member shall be an official from a State agency predominantly serving Indians; three members shall be parent participants of a program under this section or of a commodity supplemental food program; one member shall be a pediatrician; one member shall be an obstetrician; one member shall be a representative of a non-profit public interest organization that has experience with and knowledge of the special supplemental food program; one member shall be a person involved at the retail sales level of food in the special supplemental food program; two members shall be officials of the Department of Health, Education, and Welfare appointed by the Secretary of Health, Education, and Welfare; and two members shall be officials of the Department of Agriculture appointed by the Secretary.

(2) Members of the Council appointed from outside the Department of Agriculture and the Department of Health, Education, and Welfare shall be appointed for terms not exceeding three years. State and local officials shall serve only during their official tenure, and the tenure of parent participants shall not exceed two years. Persons appointed to complete an unexpired term shall serve only for the remainder of such term.

(3) The Secretary shall designate a Chairman and a Vice Chairman. The Council shall meet at the call of the Chairman, but shall meet at least once a year. Eleven members shall constitute a quorum.

(4) The Council shall make a continuing study of the operation of the program under this section and related programs to determine how the program may be improved. The Council shall submit once every two years to the President and Congress, beginning with the fiscal year ending September 30, 1980, a written report, together with its recommendations on such program operations.

(5) The Secretary shall provide the Council with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions.

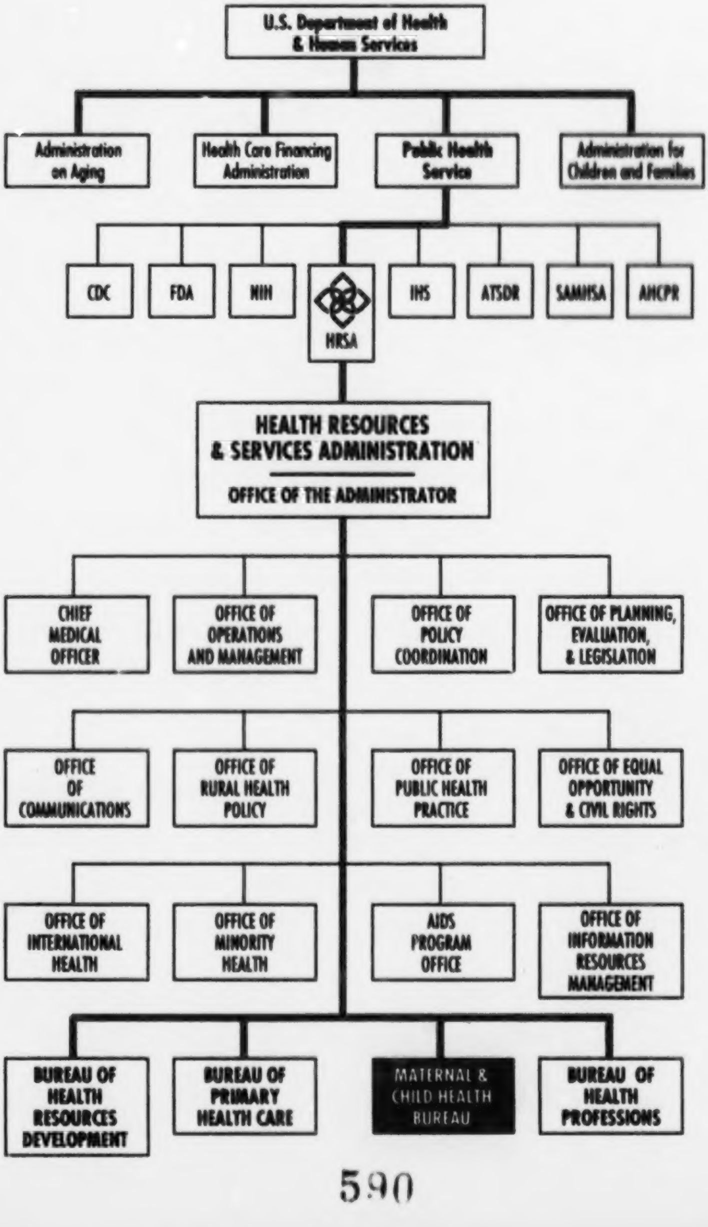
(6) Members of the Council shall serve without compensation but shall be reimbursed for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Council. Parent participant members of the Council, in addition to reimbursement for necessary travel and subsistence, shall, at the discretion of the Secretary, be compensated in advance for other personal expenses related to participation on the Council, such as child care expenses and lost wages during scheduled Council meetings.

(l) Foods available under section 416 of the Agriculture Act of 1949, including, but not limited to, dry milk, or purchased under section 32 of the Act of August 24, 1935, may be donated by the

Secretary, at the request of a State agency, for distribution to programs conducted under this section. The Secretary may purchase and distribute, at the request of a State agency, supplemental foods for donation to programs conducted under this section, with appropriated funds, including funds appropriated under this section.

ORGANIZATIONAL STRUCTURE OF TITLE V OF THE SOCIAL SECURITY ACT

MATERNAL AND CHILD HEALTH BUREAU ORGANIZATION CHART


U.S. Department of Health & Human Services
Administration on Aging
Health Care Financing Administration
Public Health Service
Administration for Children and Families
CDC
FDA
NIH
HRSA
IHS
ATSDR
SAMHSA
AHCPR
HEALTH RESOURCES & SERVICES ADMINISTRATION
OFFICE OF THE ADMINISTRATOR
CHIEF MEDICAL OFFICER
OFFICE OF OPERATIONS AND MANAGEMENT
OFFICE OF POLICY COORDINATION
OFFICE OF PLANNING, EVALUATION, & LEGISLATION
OFFICE OF COMMUNICATIONS
OFFICE OF RURAL HEALTH POLICY
OFFICE OF PUBLIC HEALTH PRACTICE
OFFICE OF EQUAL OPPORTUNITY & CIVIL RIGHTS
OFFICE OF INTERNATIONAL HEALTH
OFFICE OF MINORITY HEALTH
AIDS PROGRAM OFFICE
OFFICE OF INFORMATION RESOURCES MANAGEMENT
BUREAU OF HEALTH RESOURCES DEVELOPMENT
BUREAU OF PRIMARY HEALTH CARE
MATERNAL & CHILD HEALTH BUREAU
BUREAU OF HEALTH PROFESSIONS

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DIRECTORY OF MCH HOTLINES

Reg	State	Name of Line	Number	Hearing Impaired Services	Languages other than English
1	CT	Infoline	800-286-BABY	TDD	Various
1	ME	Division of Maternal and Child Health	800-437-9300	No	None
1	MA	Prenatal and Primary Care Hotline	800-531-MOMS	TDD	Spanish; Haitian; Creole
		Information Center	800-462-5015	TDD	Spanish; Portuguese
		The Child SSI/Public Benefits Information Line	800-882-1435	No	None
1	NH	State's Services	800-852-3345	TDD	Spanish; Portuguese
		Caring for Tomorrow's Children	800-322-2711	No	None
1	RI	Maternal and Child Health Hotline	800-346-1004	No	None
1	VT	Pregnancy Helpline		TDD	Some Southeast Asian languages
		Parents Assistance Line	800-PARENTS	TDD	Some Southeast Asian languages
2	NJ	Family Health Line	800-328-3838	TDD	Spanish; AT&T Language Line
2	NY	Healthy Baby Hotline	800-522-5006	No	Spanish
2	Puerto Rico	Maternal and Child Health Hotline	800-462-6657 754-9580 (San Juan)	No	Spanish
2	Virgin Islands	*Not yet operational*			
3	DE	Helpline	800-464-HELP	TDD	Spanish
3	DC	Baby Hotline	800-MOM-BABY 202-547-BABY (local)	TDD	Spanish
3	MD	Pregnant Women and Children's Line	800-456-8900	Relay	None
3	PA	Connect Line	800-85-CHILD	Relay	Spanish
3	VA	Maternal and Child Helpline	800-421-7376	No	None
3	WV	Women's Services	800-642-8522	No	None
		Children's Services	800-642-9704	No	None
		Family Matters	800-734-2319	TDD	None
4	AL	STORKLINE	800-654-1385	No	None
4	FL	Healthy Baby Hotline	800-451-BABY	TDD	Spanish
4	GA	OWERLINE	800-822-2539 404-881-8038 (Atlanta)	Relay	Spanish
4	KY	Ombudsman Hotline	800-372-2973	TDD	None
4	MS	Governor's Service Line	800-222-7622	No	None

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Reg	State	Name of Line	Number	Hearing Impaired Services	Languages other than English
4	NC	First Step Hotline	800-FOR-BABY	Relay	Spanish
4	SC	1st Nine Care Line	800-868-0404	No	Spanish
4	TN	Pregnancy Information Line	800-428-BABY	No	None
5	IL	Beautiful Babies Hotline	800-545-2200	No	Spanish
		Parents Too Soon	800-4-CALL US		
5	IN	Family Wellness Helpline	800-433-0746	TDD	None
5	MI	Prenatal Hotline	800-26-BIRTH 800-961-BABY (Detroit)	TDD	None
5	MN	Services for Children with Handicaps	800-728-5420	TDD	None
		Family Planning Hotline	800-78-FACTS	TDD	None
		Children's Health Plan	800-652-9747 297-3862 (Minneap./St. Paul)	Relay	None
5	OH	Healthy Babies Helpline	800-624-BABY	TDD	Spanish; some Southeast Asian languages
5	WI	Healthy Start Hotline	800-722-2295	No	None
6	AR	Maternal-Child Health Information Line	800-235-0002	No	Spanish
6	LA	Disabilities Information Access Line	800-422-DIAL	TDD	Spanish; Vietnamese
6	NM	Baby Net	800-552-8195	TDD	Spanish
6	OK	Maternal and Child Health Hotline	800-42-OASIS	TDD and relay	Spanish
6	TX	BABY-LOVE	800-422-2956	No	Spanish
7	IA	Healthy Families	800-369-2229	TDD	Spanish; Asian
7	KS	Make A Difference Network (MADIN)	800-332-6262	TDD	Spanish
7	MO	TEL-LINK	800-835-5465	Relay	Spanish
7	NE	Healthy Mothers/Healthy Baby Helpline	800-862-1889	No	None
8	CO	Family Health Line	800-688-7777	No	Spanish
8	MT	Baby Your Baby Line	800-421-MOMS	No	None
8	ND	Maternal and Child Health Information and Referral Line	800-472-2286	No	Sioux
8	SD	Statewide Information & Referral Service	800-658-3080	TDD	None
8	UT	Baby-Your-Baby Hotline	800-826-9662	Yes	Spanish
8	WY	Medicaid Program Line	800-442-4333	No	Spanish
9	AZ	Pregnancy & Breastfeeding Hotline	800-833-4642	No	Spanish
9	CA	BabyCal	800-BABY-999	No	Spanish

Reg	State	Name of Line	Number	Hearing Impaired Services	Languages other than English
9	HI	MothersCARE	800-735-2141	TDD	Japanese; Korean; Portuguese; Lao; Tagalog; Bilingual Access Line
		ASK-2000	275-2000 (Oahu) 1-275-2000 (neighbor islands)	TDD	See above
		H-KISS	955-7273 (Oahu) 800-235-5477 (neighbor islands)	TDD	See above
		Parent Line	562-1222 (Oahu) 0-526-1222 (neighbor islands)	TDD	See above
		Medicaid Hotline	586-5396 (Oahu) 800-762-8533 (neighbor islands)	TDD	See above
9	Pacific Basin	Varies depending on territory	Varies	No	Native languages
9	NV	Maternal and Child Health Information Line	800-992-0900	TDD	Spanish
10	AK	Health RAFT (Resources for Alaskan Families by Telephone)	800-478-2221	TDD and relay	Yupik
10	ID	Idaho CareLine	800-926-2588	No	Spanish
10	OR	SafeNet for Women, Children, and Teens	800-SAFENET	TDD	Spanish; AT&T Language Line
10	WA	Healthy Mothers, Healthy Babies	800-322-2588	TDD	Spanish
		Recipient Assistance	800-562-3022	TDD	AT&T Language Line